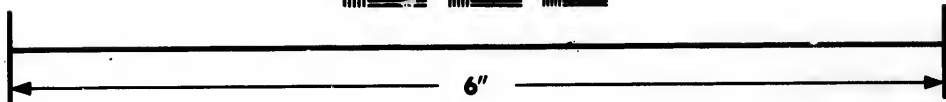
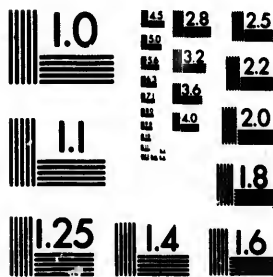


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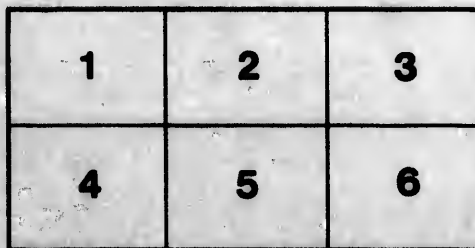
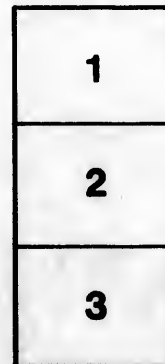
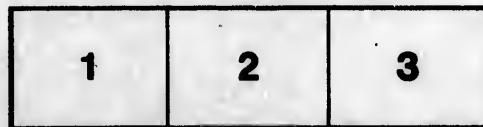
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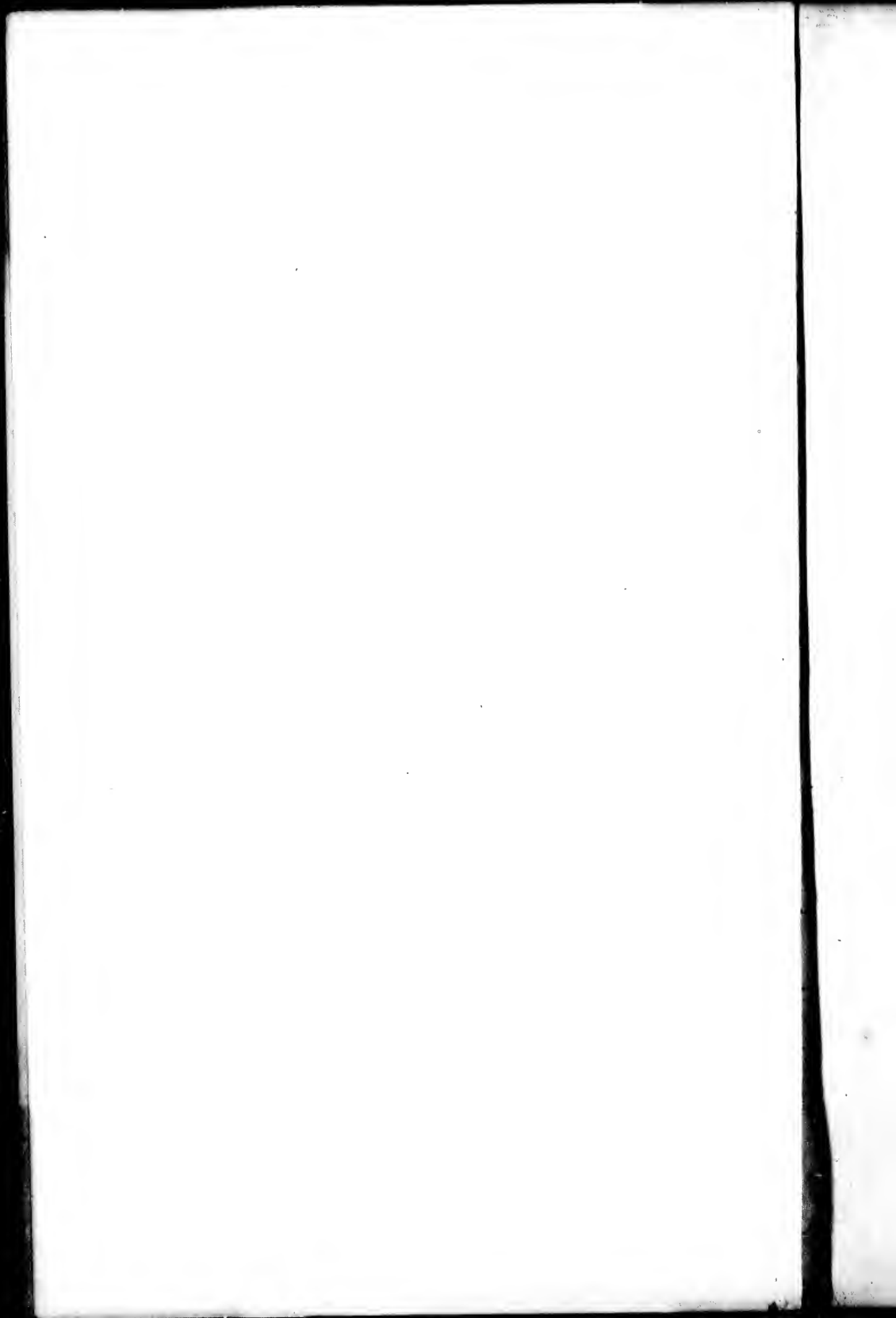
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**CORRESPONDENCE**

**BETWEEN**

**VISCOUNT PALMERSTON & MR. STEVENSON,**

**RELATIVE TO THE**

**SEIZURE AND DESTRUCTION**

**OF THE**

**STEAM BOAT "CAROLINE,"**

**IN THE NIAGARA RIVER,**

**ON THE NIGHT OF THE 29<sup>TH</sup> OF DECEMBER, 1837, BY A  
DETACHMENT OF HER MAJESTY'S FORCES FROM  
UPPER CANADA.**

---

1841  
(26)

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CORRESPONDENCE

BETWEEN

VISCOUNT PALMERSTON & MR. STEVENSON,

RELATIVE TO THE

SEIZURE AND DESTRUCTION

OF THE

STEAM BOAT "CAROLINE."

---

No. 1.

*Mr. Stevenson to Viscount Palmerston.*

CASE OF THE "CAROLINE."

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honour to acquaint Lord Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, that, in obedience to instructions from his Government, it has been made his duty to bring to the view of Her Majesty's Government, the accompanying documents, detailing the particulars and proofs of a signal and extraordinary outrage committed by the British troops from the province of Upper Canada, upon the persons and property of citizens of the United States, within its limits and jurisdiction, and which, in the view of the President of the United States, form the subject of a demand for redress upon Her Majesty's Government.

In communicating this evidence to his Lordship, the Undersigned deems it proper to accompany it with an explanation of the manner in which it has been obtained, and the delay which has taken place in not presenting the subject at an earlier period to the consideration of Her Majesty's Government.

By an examination of these papers it will be seen, that as soon as information of the proceeding was communicated to the Executive of the United States, an Official Note, by the direction of the President, was addressed by the Secretary of State to Her Majesty's Minister, Mr. Fox, communicating copies of the statements which had been received, and asking an immediate explanation of the circumstances under which the aggression had taken place. Mr. Forsyth's letter bears date on the 5th of January last, and the papers transmitted to Mr. Fox, consisted of a letter from the District Attorney of the United States, and the affidavits of the captain and nine others who were on board the steam-boat at the time of her seizure and destruction in the port of Schlosser. Copies of these will be found among the papers now transmitted to Lord Palmerston, marked A.

These statements would have justified an immediate appeal to Her Majesty's Government for suitable reparation; but the President deemed it expedient, preparatory to any demands being made, to have the subject thoroughly investigated, and the facts ascertained. It was, moreover,

B

anticipated that the conduct of the individuals concerned in this alleged outrage, would, under the spontaneous act of their own Government, have undergone that official investigation which such a proceeding would seem so justly to call for.

Orders were given to the law officers of the Government to take immediate steps for the purpose of collecting the witnesses and obtaining the fullest information of all the circumstances connected with the transaction.

This was accordingly done, and the body of evidence which the Undersigned has now the honour of communicating, was the result.

Lord Palmerston will thus perceive that the delay which has taken place in not presenting the subject sooner to the notice of his Government, has proceeded from no want of a just sensibility to the proceeding or any doubt of its being a proper subject for redress, but from a desire on the part of the President to accompany the demand with irrefragable proofs as to the nature and extent of the outrage committed.

This evidence having been obtained and transmitted to the President, he has, after full consideration, and under a deep sense of what was due, as well to the Government of the United States as that of Her Majesty, deemed the proceeding a fit one for the demand of reparation.

With this demand the Undersigned has been charged, and he feels that he shall best fulfil the wishes of his Government, and manifest the justice of the appeal which he has been instructed to make, by confining himself to a brief recapitulation of the facts established by the documents which he has the honour of transmitting to Lord Palmerston, and the principles which govern them.

The following are the prominent and important facts.

On the morning of the 29th of December last, a steam-boat called the "Caroline," of Buffalo, in the State of New York, left that port for Schlosser, another port of that State, upon the east side of the Niagara River.

That this vessel was the property of William Wells, of the said city of Buffalo, and was commanded by Captain Gilman Appleby, both of whom are citizens of the United States.

That she was cleared with a view of running between the said Ports of Buffalo and Schlosser, and for the purpose of carrying passengers and freight.

That on her moving down the Niagara River, she came to at Black Rock Dam, and whilst in port, the Captain caused the American ensign to be run up.

That soon after leaving Black Rock Harbour, several musket-shots were discharged at the said boat from the Canada shore, but without doing any injury.

That her course down the river was continued without further molestation, and she touched at Navy Island, where a number of passengers disembarked, and some articles of freight were landed.

That from this place she was run over to Schlosser, where she arrived about three o'clock, P. M.

That subsequently two trips only were made by the boat to Navy Island, and on her return to Schlosser after the last trip that day she was made fast to the dock at that place with a chain-cable, about six o'clock in the evening.

That the officers and crew of the "Caroline" were ten in number, and that in the course of the evening of that day, twenty-three other individuals (citizens of the United States) came on board the boat and requested that they might be permitted to remain there during the night as they were unable to procure lodgings at the only tavern or inn at Schlosser. That this request was granted, and they retired to rest, as did the officers and crew of the said boat, with the exception of the night watch.

That about midnight an alarm was given in consequence of the approach from the river of four or five boats, and a few moments after, the "Caroline" was boarded by a number of armed men from said boats, who immediately commenced an indiscriminate attack with pistols,

swords, and cutlasses, upon the unarmed crew and inmates of said vessel, under the cry of, "Give no quarter," several of whom were slaughtered.

That the steam-boat was yielded without resistance, and was immediately afterwards set on fire in several places, cut loose from the dock, (attached to the main land) towed into the current of the river, abandoned, and ultimately went over the Niagara Falls.

That one man, Amos Durfee (a citizen of Buffalo) was killed, and left dead on the dock at Schlosser, and others, who escaped with life, most severely wounded and disabled, amongst whom was the captain.

That several individuals who were on board the boat are still missing, and there is strong reason for believing that they were either murdered, or found a watery grave in the cataract of the river.

That immediately after the boat was fired and cast adrift in the stream, beacon lights were discovered upon the Canada shore, near Chippewa, and when sufficient time had elapsed to enable the armed troops to reach the shore, loud and vociferous cheering was heard at that point, inducing a belief, since confirmed and acknowledged, that the outrage was planned and consummated by a portion of the British force stationed at that place.

It is in proof that there was no fortification of any kind at Schlosser: that hostilities were not commenced on the American side, and that no shot from cannon, or fire-arms, was discharged from the American shore on the morning of the 29th of December, as pretended by one of the British officers.

It further appears that two persons (probably Luke Walker and Sylvanus Fearnes Wrigley) were taken prisoners and carried to Queen's Town, and there coerced, by violence and threats, to give evidence and unfold the plans of the forces on Navy Island.

That the value of the steam-boat and property destroyed, amounts to about 5,000 dollars.

These are the important facts disclosed by the documents, and upon which the application for reparation rests. They cannot be perused without exciting the deepest surprise and regret. For their proof we are not forced to look to doubtful evidence, or to witnesses of doubtful credit. The whole character of the evidence now submitted to Her Majesty's Government is too clear and striking to leave any doubt as to its truth, although directly at variance, as Lord Palmerston will perceive, with the statements communicated by Mr. Fox on the part of Her Majesty's Provincial Officers, copies of which will be found with the papers transmitted, marked B.

Indeed, so far from the British statements representing correctly the circumstances under which the outrage was committed, it will be seen that they are in every essential particular discredited, and disproved by the most unimpeachable evidence.

The concurrent testimony of so many witnesses of respectability and standing, strip the proceeding of every pretext alleged in its justification, and mark it as one of the most offensive and unwarrantable character.

It shows moreover that, so far from the outrage having been committed under extenuating circumstances of sudden conflict, or in the hurry and excitement of impending war, it was perpetrated after concert and preparation, by an armed and superior force, upon unarmed and defenceless men, under cover of night and circumstances of signal atrocity. It was a proceeding, too, the more unexpected and reprehensible, inasmuch as it was planned and executed at a moment when the earnest efforts of the Government of the United States were directed to the preservation of its obligations of neutrality, and whilst both the General and State Governments were using every effort in their power to restrain individuals on their northern frontier from unlawfully interfering in the contest between Great Britain and her colonies.

Indeed, at the very moment when the Lieutenant-Governor of Upper Canada was declaring to the Provincial Parliament his confidence in the disposition of the American Government to prevent its citizens from engaging in the contest that was then raging, and was waiting for replies

from the Governor of New York and Her Majesty's Minister at Washington, with whom he had communicated, this outrage was, with his knowledge and approbation, planned and executed.

Under such circumstances, it was not to have been expected that the whole proceeding could be regarded by the Government of the United States in any other light than as a manifest act of hostile and daring aggression upon the rights and sovereignty, utterly inconsistent with all the principles of national law, and wholly irreconcilable with the friendly and peaceful relations of the two countries.

Such is the view which the Undersigned has been directed to present to Her Majesty's Government, and here he would rest the appeal with which he has been charged, but for the grounds which have been relied on by the provincial authorities in justification of the proceeding, and which were communicated by Mr. Fox to Mr. Forsyth in his note of the 6th of February last.

To these grounds it may not be unimportant that he should now briefly advert. It is alleged that the character of this vessel was piratical; that she was the property of robbers and pirates, and employed in their service in carrying men, arms, and munitions of war, from the United States into Canada, and consequently that she was liable to seizure and destruction, not only without, but within, the limits and jurisdiction of the United States.

In the first place, it is denied that this vessel, under any principle of the law or practice of nations, could be regarded as piratical, or those on board of her treated as pirates or robbers.

And here it becomes necessary to ascertain the character and nature of the contest between Great Britain and her Canadian colonies.

The following principles are assumed as incontrovertible:—That civil wars are not distinguishable from other wars as to belligerent and neutral rights; that they stand upon the same ground, and are governed by the same principles: that whenever a portion of a State seek by force of arms to overthrow the Government, and maintain independence, the contest becomes one, *de facto*, of war! That in such contests the principles of public law in relation to belligerents must govern, and all the rights which a state of war gives to public enemies are to be allowed to the respective parties engaged in them.

Applying these principles to the contest between Great Britain and her colonies, it must be regarded, as far as other nations are concerned, as a civil war and treated accordingly. Now it may be admitted, that foreigners uniting themselves with a belligerent, become the enemy of the party to whom that belligerent is opposed; but in doing so, they only subject themselves to what the belligerent may lawfully be subject, and are entitled to all the rights to which the belligerent would be entitled. If then citizens of the United States, by associating themselves with the Canadian insurgents, became identified with them as enemies of Great Britain, they could only be regarded as such whilst in arms, and were to be treated in like manner. By interfering, they made themselves parties in the civil war, and Great Britain could only subject them to the same penalties which she could rightfully enforce against her revolting subjects with whom *quo ad hoc*, they had become Allies.

Voluntary aid and succour, therefore, from foreigners to persons conspiring to subvert or change their Government, can neither be regarded as piracy, or punished as criminal, unless the offending party be taken in arms against the Government, and within its jurisdiction.

This doctrine, it is needless to remind Lord Palmerston, stands upon the clearest principles of natural justice and national law, and the usage of all civilized nations. Great Britain has herself always maintained it, and her annals are full of instruction on the subject.

It is wholly immaterial, then, what the contraband character and employment of this vessel was. She was not piratical, nor could those on board of her be punished as pirates or outlaws. Piracy by the public law can only consist in acts which are offences against all nations.

But if it were not so, and she was admitted to be piratical, and not

the property of citizens of the United States, but of the British insurgents, still there is nothing gained in defence of this proceeding unless it can also be shown, that the British Authorities had the right to seek and destroy her by an armed force within the limits and jurisdiction of a Sovereign and Independent State.

Of all the principles of public law there are none more sacred than those which secure the immunity of neutral territory from the exercise of acts of hostility or war by a foreign Power.

The law of nations, therefore, forbids all use of neutral territory for hostile purposes, and emphatically declares that the rights of war shall only be exercised within the territory of the belligerent, on the high seas, or without the jurisdiction of any other nation: hence, it is forbidden as well by universal as international law, to commence or continue any act of violence against enemies' ships within the limits and jurisdiction of a neutral nation. Every entrance, therefore, into neutral territory with hostile intention is denounced as unlawful. This is the general and acknowledged doctrine of public law, and is of essential importance to the tranquillity and security of nations. If, then, the individuals on board the "Caroline" were violators of the neutrality of the United States and the rights of war, by giving aid and succour to insurgents, and had forfeited all claim to the protection of their country, they were yet not punishable within the territorial limits of the United States by Great Britain or her officers, but were alone amenable to the laws of the United States.

But it will be said there are exceptions to this rule, and cases arising out of necessity and self-preservation, which suspend in favour of a belligerent *sub-modo* the rights of a neutral nation, and justify the invasion of its territory. These cases are admitted, but they are few and defined. All writers on the law of nations concur in opinion, that there can be no entry into the territory of an independent State, but where consent is given; or where the entry is innocent, and unjustly refused, or in cases of extreme state necessity. These are the only exceptions to the general rule.

If the right be claimed (as it is admitted to be in this case) on the ground of necessity, we must look to the law of nations for the character and degree of the necessity, and the conditions annexed to its exercise. Now all publicists agree, that the necessity which justifies invasion of neutral territory must be imminent and extreme, and involving impending destruction. It is never permitted for purposes of convenience, or ordinary defence, or as a measure of retaliation, however atrocious the injury may have been which it is intended to punish. Wherever, then, there has been a clear invasion of neutral territory, the proof lies upon the party to bring himself within the exception, and show the character of the necessity under which the violation took place. Was the present such a case? Was the necessity even remote, much less extreme and imminent? What advantage was gained by the destruction of this vessel, but to revive and swell the excitement which then existed on the American frontier, and which the Government of the United States were using its best efforts to assuage? None, certainly! On the contrary, to suppose for a moment that a measure was dictated by the extreme necessity of self-preservation, which was, in fact, not even useful, or in any manner conducive to such an end, would be preposterous.

It can hardly, then, be presumed, that Her Majesty's Government will maintain that this was a case embraced within the exceptions, and justified by the principles of public law or the usage of civilized nations. There is not a feature in the whole proceeding to warrant such an opinion. On the contrary, the case, as proved, is one of an open and acknowledged invasion of the territory and sovereignty of an independent nation, by the armed forces of a friendly Power, and the destruction of the lives and property of its citizens, under circumstances of peculiar aggravation, not less injurious to the character and interests of Her Majesty's Government than those of the United States.

That such will be the view which Her Majesty's Government will take of this proceeding the Undersigned cannot doubt.



To the alleged breach of neutrality by the American Government it is not necessary, nor would it be proper, that the Undersigned should at this time do more than briefly advert. Although attempts have been made by the perpetrators of this outrage, and others of Her Majesty's Provincial Government, to involve the United States and its officers in the odium of countenancing, if not participating in the breach of neutrality, the Undersigned is happy in knowing that they have signally failed. They were made without the slightest evidence of their truth, and under circumstances which entitle them to no credit. Her Majesty's Government have not been insensible to the efforts which were made both by the general and State Governments to enforce and preserve their obligations of neutrality. Faithful to the principles which it has always professed, and on which it has ever acted, the American Government determined from the first moment of the contest to maintain the strictest neutrality. Everything was done which Her Majesty's Government had a right to expect, and to the prompt and vigorous measures adopted by the United States are in a great measure to be attributed, the cessation of hostilities within the Canadian Provinces. The sincerity of the American Government in preserving its relations of neutrality and peace will therefore be best seen in the early manifestation of its views, and the steps taken to restrain its misguided citizens from interfering in the disturbances of Her Majesty's colonies.

These efforts moreover were spontaneous and uncalled for. So far from being influenced or stimulated by any requisition on the part of Her Majesty's Government, they were prompted solely by its own views of duty and interest and its love of peace. If, however, the United States had failed to preserve its neutral relations, it would still have afforded no ground of defence or justification for this proceeding. That would have been a matter for adjustment between the two Governments, and not left to the rashness or caprice of subordinate officers, such as those concerned in the perpetration of this outrage, and upon whose discretion and judgment such little reliance is to be placed. If there had indeed been any breach of neutrality on the part of the United States, it was for Her Majesty's Government alone to have vindicated its rights upon the principles of international law. The case, then, is one of open, undisguised, and unwarrantable hostility.

The Undersigned has, therefore, been instructed to invite the early attention of Her Majesty's Government to this subject, and in appealing to its sense of honour, justice, and magnanimity, to express the confident expectation of the President of the United States that this whole proceeding will not only be disavowed and disapproved, but that such redress as the nature of the case obviously requires, will be promptly made.

The Undersigned, &c.,

(Signed) A. STEVENSON

23, *Portland Place*,  
May 22nd, 1838.

[List of documents transmitted herewith.]

A. The first communication from the district attorney of the United States to the President, transmitting affidavits in relation to the destruction of the steam-boat "Caroline."

B. Copy of a letter from Her Majesty's Minister at Washington of the 6th of February, to the Secretary of State, transmitting the copy of a communication from the Lieutenant-Governor of Upper Canada, with divers reports and depositions annexed in relation to the same.

C. The whole body of evidence of American citizens in relation to the same, taken by officers of the United States, under the direction of the Executive, the originals being on file in this Legation.

## Inclosure 1 in No. 1.

*Mr. Rogers to the President of the United States.*

Sir,

*Buffalo, December 30, 1837.*

INCLOSED are copies of affidavits which I have prepared in great haste, and which contain all that is material in relation to the gross and extraordinary transaction to which they relate. Our whole frontier is in commotion; and I fear it will be difficult to restrain our citizens from revenging, by a resort to arms, this flagrant invasion of our territory. Everything that can be done will be by the public authorities, to prevent so injudicious a movement. The respective Sheriffs of Erie and Niagara have taken the responsibility of calling out the Militia to guard the frontier and prevent any further depredations.

I am, &c.,  
(Signed) H. W. ROGERS,  
*District Attorney for Erie County, and  
Acting for the United States.*

Sub-Inclosure 1 in Inclosure 1 in No. 1.

*Deposition of Gilman Appleby.*

State of New York, Niagara County Sessions.

GILMAN APPLEBY, of the City of Buffalo, being sworn, says, that he left the port of Buffalo on the morning of the 29th instant in the steam-boat "Caroline," owned by William Wells of Buffalo, and bound for Schlosser upon the east side of the Niagara River and within the United States; that this deponent commanded the said "Caroline," and that she was cleared from Buffalo, with a view to run between said Buffalo and Schlosser carrying passengers, freight, &c.; that this deponent caused the said "Caroline" to be landed at Black Rock on her way down; and that while at Black Rock this deponent caused the American flag to be run up; and that soon after leaving Black Rock harbour a volley of musketry was discharged at the "Caroline" from the Canada shore, but without injury. That the said "Caroline" continued her course down the Niagara River unmolested, and landed outside of certain scows or boats attached to Navy Island, where a number of passengers disembarked, and, as this deponent supposes, certain articles of freight were landed; that from this point the "Caroline" ran to Schlosser, arriving there at three o'clock in the afternoon; that between this time and dark the "Caroline" made two trips to Navy Island, landing as before; that at about six o'clock in the evening this deponent caused the said "Caroline" to be landed at Schlosser, and made fast with chains to the dock at that place. That the crew and officers of the Caroline numbered ten; and that in the course of the evening twenty-three individuals, all of whom were citizens of the United States, came on board the "Caroline," and requested this deponent and other officers of the boat to permit them to remain on board during the night, as they were unable to get lodgings at the tavern near by. These requests were acceded to; and the persons thus coming on board retired to rest, as did also the crew and officers of the "Caroline," except such as were stationed to watch during the night; that about midnight this deponent was informed by one of the watch, that several boats filled with men were making towards the "Caroline" from the river; and this deponent immediately gave the alarm, and before he was able to reach the deck the "Caroline" was boarded by some seventy or eighty men, all of whom were armed. That they immediately commenced a warfare with muskets, swords, and cutlasses, upon the defenceless crew and passengers of the "Caroline," under a fierce cry of "G—d damn them, give no quarters,—kill every man,—fire! fire!" That the "Caroline" was



abandoned without resistance, and the only effort made by either the crew or passengers seemed to be to escape slaughter; that this deponent narrowly escaped, having received several wounds, none of which, however, are of a serious character. That immediately after the "Caroline" fell into the hands of the armed force who boarded her, she was set on fire, cut loose from the dock, was towed into the current of the river and there abandoned, and soon after descended the Niagara Falls. That this deponent has made vigilant search after the individuals, thirty-three in number, who are known to have been upon the "Caroline" at the time she was boarded, and twenty-one only are to be found, one of which, to wit, Amos Durie of Buffalo, was found dead upon the dock, having received a shot from a musket, the ball of which penetrated the back part of the head and came out at the forehead; James H. King and Captain C. F. Harding were seriously, though not mortally, wounded; several others received slight wounds. The twelve individuals who are missing, this deponent has no doubt, were either murdered upon the steam-boat, or found a watery grave in the cataract of the Falls. And this deponent further says, that immediately after the "Caroline" was got into the current of the stream and abandoned, as before stated, beacon lights were discovered upon the Canada shore near Chippewa, and after sufficient time had elapsed to enable the boats to reach that shore, this deponent distinctly heard loud and vociferous cheering at that point. That this deponent has no doubt that the individuals who boarded the "Caroline" were a part of the British forces now stationed at Chippewa.

(Signed) GILMAN APPLEBY.

Subscribed and sworn December 30,

1837, before me, (Signed)

S. B. PIPER,  
Commissioner of Deeds, &c., for  
Niagara County.

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~~Sub-Inclosure 2~~ in Inclosure 1 in No. 1.

*Deposition of Messrs. F. Harding, J. King, Joshua H. Smith, &c. &c.*

State of New York, Niagara County Sessions.

CHARLES F. HARDING, James H. King, Joshua H. Smith, William Seaman, William Kennedy, William Wells, John Leonard, Sylvanus Staring, and John Haggarty, being sworn, severally depose and say, that they have heard the foregoing affidavit of Gilman Appleby read; that they were on the "Caroline" at the time she was boarded, as stated in said affidavit; and that all the facts sworn to by said Appleby as occurring after the said "Caroline" was so boarded, as aforesaid, are correct and true.

(Signed)

C. F. HARDING.  
JAMES H. KING.  
J. H. SMITH.  
WILLIAM SEAMAN.  
WILLIAM KENNEDY.  
WILLIAM WELLS.  
JOHN LEONARD.  
SYLVANUS STARING.  
JOHN C. HAGGARTY.

Sworn and subscribed, December 30,

1837, before me, (Signed)

S. B. PIPER,  
Commissioner of Deeds for Niagara  
County.

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Inclosure 2 in No. 1.

*Mr. Fox to Mr. Forsyth.*

Sir,

Washington, February 6, 1838.

WITH reference to the letters which, by direction of the President, you addressed to me on the 5th and 19th ultimo, respecting the capture and destruction of the steam-boat, "Caroline," by a Canadian force on the American side of the Niagara River, within the jurisdiction of the State of New York, I have now the honour to communicate to you the copy of a letter upon that subject, which I have received from Sir Francis Head, Lieutenant-Governor of the Province of Upper Canada, with divers reports and depositions annexed.

The piratical character of the steam-boat "Caroline," and the necessity of self-defence and self-preservation, under which Her Majesty's subjects acted in destroying that vessel would seem to be sufficiently established.

At the time when the event happened, the ordinary laws of the United States were not enforced within the frontier district of the State of New York. The authority of the law was overborne, publicly, by piratical violence. Through such violence Her Majesty's subjects in Upper Canada had already severely suffered; and they were threatened with still further injury and outrage.

This extraordinary state of things appears, naturally and necessarily, to have impelled them to consult their own security, by pursuing and destroying the vessel of their piratical enemy, wheresoever they might find her.

I avail myself, &amp;c.,

(Signed) H. S. FOX

-Sub-Inclosure 1 in Inclosure 2 in No. 1.-

*Sir Francis Head to Mr. Fox.*

Toronto, Upper Canada,

January 8, 1838.

Sir,

I HAVE the honour to inclose to you the copy of a special message sent by his Excellency Governor Marcy to the Legislature of the State of New York in relation to a matter on which your Excellency will desire the earliest and most authentic information. The message only reached this place yesterday, and I lost no time in communicating with your Excellency on the subject.

The Governor of the State of New York complains of the cutting out and burning of the steam-boat "Caroline," by order of Colonel McNab, commanding Her Majesty's forces at Chippewa, in the Province of Upper Canada, and of the destruction of the lives of some American citizens who were on board of the boat at the time she was attacked.

The act complained of was done under the following circumstances:

In Upper Canada, which contains a population of about 450,000 souls, the most perfect tranquillity prevailed up to the 4th day of December last, although in the adjoining province of Lower Canada many of the French Canadian inhabitants had been in open rebellion against the Government, for about a month preceding.

At no time since the Treaty of Peace with the United States in 1815, had Upper Canada been more undisturbed. The real causes of the insurrection in Lower Canada, namely, the national antipathy of the French inhabitants, did not in any degree apply in the Upper Province, whose population, like the British and American inhabitants of Lower Canada, were wholly opposed to the revolt, and anxious to render every service in their power in support of the Queen's authority. It had been reported to the Government some time before the 4th of December, that

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in a remote portion of the home district a number of persons occasionally met and drilled with arms under leaders known to be disaffected, but it was not believed by the Government that anything more could be intended than to make a show of threatened revolt in order to create a diversion in favour of the rebels in Lower Canada.

The feeling of loyalty throughout this province was known to be so prevalent and decided, that it was not thought unsafe to forbear, for the time at least, to take any notice of the proceedings of this party.

On the night of the 4th of December, the inhabitants of the city of Toronto were alarmed by the intelligence that about 500 persons armed with rifles were approaching the city,—that they had murdered a gentleman of great respectability on the highway, and had made several persons prisoners. The inhabitants rushed immediately to arms, there were no soldiers in the province, and no militia had been called out.

The home district from which this party of armed men came contains 60,000 inhabitants, the city of Toronto 10,000. In a few hours a respectable force, although undisciplined, was collected and armed in self defence, and awaited the threatened attack. It seems now to admit of no doubt, that if they had at once advanced against the insurgents they would have met with no formidable resistance, but it was thought more prudent to wait until a sufficient force should be collected to put the success of an attack beyond question. In the meantime people poured in from all quarters to oppose the insurgents, who obtained no increase of numbers, but, on the contrary, were deserted by many of their body, in consequence of the acts of devastation and plunder into which their leader had forced them.

On the 7th of December an overwhelming force of militia went against them and dispersed them, without losing a man, taking many prisoners, who were instantly by my order released, and suffered to depart to their homes. The rest with their leaders fled; some have since surrendered themselves to justice, many have been taken, and some have escaped from the province.

It was reported about this time that in the district of London a similar disposition to rise had been observed, and in consequence a militia force of about 400 men was sent into that district, where it was speedily joined by three times as many of the inhabitants of the district who assembled voluntarily, and came to their aid with the greatest alacrity,

It was discovered that about 300 persons under Dr. Duncombe, an American by birth, were assembled with arms; but before the militia could reach them, they dispersed themselves and fled. Of these by far the greater number came in immediately, and submitted themselves to the Government, declaring that they had been misled and deceived, and praying for forgiveness.

In about a week perfect tranquillity was restored, and from that moment not a man has been seen in arms against the Government in any part of the province, with the exception of the hostile aggression upon Navy Island, which I shall presently notice; nor has there been the slightest resistance offered to the execution of legal process in a single instance.

After the dispersion of the armed insurgents near Toronto, Mr. Mc Kenzie, their leader, escaped in disguise to the Niagara River, and crossed over to Buffalo. Reports had been spread there, and elsewhere along the American frontier, that Toronto had been burnt, and that the rebels were completely successful; but the falsehood of these absurd rumours was well known before Mc Kenzie arrived on the American side.

It was known also that the ridiculous attempt of 400 men to revolutionize a country containing nearly half a million inhabitants, had been put down by the people instantly and decidedly, without the loss of a man.

Nevertheless a number of American citizens in Buffalo, and other towns on the frontier of the State of New York, enlisted as soldiers, with the avowed object of invading Canada, and establishing a provisional government.

Public meetings were held to forward this design of invading a coun-

try with which the United States were at peace. Volunteers were called for; and arms, ammunition, and provisions were supplied by contributions openly made. All this was in direct and flagrant violation of the express laws of the United States as well as of the law of nations.

The civil authority of Buffalo offered some slight show of resistance to the movement, being urged to interpose by many of the most respectable citizens, but no real impediment was offered; and on the 13th of December some hundreds of the citizens of the State of New York, as an armed body, under the command of a Mr. Van Rensselaer, an American citizen, openly invaded and took possession of Navy Island, a part of Upper Canada, situate in the Niagara River.

Not believing that such an outrage would really be committed, no force whatever was assembled at the time to counteract this hostile movement.

In a very short time this lawless band obtained from some of the arsenals of the State of New York, clandestinely as it is said, several pieces of artillery and other arms, which, in broad daylight, were openly transported to Navy Island, without resistance from the American authorities; the people of Buffalo and the adjacent country continued to supply them with stores of various kinds, and additional men enlisted in their ranks.

In a few days their force was variously stated from 5,000 to 15,000, of whom a small proportion were rebels, who had fled from Upper Canada. They began to intrench themselves, and threatened that they would in a short time make a landing on the Canadian side of the Niagara River.

To prevent this, and to keep them in check, a body of militia was hastily collected and stationed on the frontier, under the command of Colonel Cameron, Assistant Adjutant-General of Militia, who was succeeded in this command by Colonel Mc Nab, the Speaker of the House of Assembly, an officer whose humanity and discretion, as well as his activity, have been proved by his conduct in putting down the insurrection in London district, and have been acknowledged in warm terms of gratitude by the misguided persons who had surrendered themselves into his hands. He received orders to act on the defensive only, and to be careful not to do any act which the American Government could justly complain of as a breach of neutrality.

An official statement of the unfriendly proceedings at Buffalo was without delay (on the 13th December) made by me to his Excellency the Governor of the State of New York, to which no answer has been received. And after this open invasion of our territory, and when it became evident that nothing was effected at Buffalo for preventing the violation of neutrality, a special messenger was sent to your Excellency at Washington, to urge your interposition in the matter. Sufficient time has not yet elapsed to admit of his return. Soon after his departure, this band of outlaws on Navy Island, acting in defiance of the laws and government of both countries, opened a fire from several pieces of ordnance upon the Canadian shore, which in this part is thickly settled; the distance from the island being about 600 yards, and within sight of the populous village of Chippewa.

They put several balls (six-pound shot) through a house in which a party of militia-men were quartered, and which is the dwelling-house of Captain Usher, a respectable inhabitant. They killed a horse on which a man at the time was riding, but happily did no further mischief, though they fired also repeatedly with cannon and musketry upon our boats.

They continued daily to render their position more formidable, receiving constant supplies of men and warlike stores from the State of New York, which were chiefly embarked at a landing-place on the American main shore, called Fort Schlosser, nearly opposite to Navy Island. This place was once, I believe, a military position before the conquest of Canada from the French, but there is now neither fort or village there, but merely a single house occupied as a tavern, and a wharf in front of it, to which boats and vessels are moored. The tavern had been, during these lawless proceedings, a rendezvous for the band who cannot be called by any name more appropriate than pirates, and was, in fact, openly and notoriously resorted to as their head-quarters on the main-land, and is so

to this time. On the 28th December, positive information was given to Colonel McNab by persons from Buffalo, that a small steam-boat, called the "Caroline," of about fifty tons burthen, had been hired by the pirates, who called themselves "patriots," and was to be employed in carrying down cannon and other stores, and in transporting men and anything else that might be required between Fort Schlosser and Navy Island.

He resolved if she came down and engaged in this service, to take or destroy her; she did come down, agreeably to the information he received; she transported a piece of artillery and other stores to the island, and made repeated passages during the day between the island and the main shore.

In the night he sent a party of militia in boats, with orders to take or destroy her: they proceeded to execute the order; they found the "Caroline" moored to the wharf opposite to the inn at Fort Schlosser. In the inn there was a guard of armed men to protect her, part of the pirate force, or acting in their support; on her deck there was an armed party, and a sentinel also demanded the countersign.

Thus identified as she was with the force which, in defiance of the law of nations and every principle of natural justice, had invaded Upper Canada, and made war upon its unoffending inhabitants, she was boarded, and after a resistance in which some desperate wounds were inflicted upon the assailants, she was carried. If any peaceful citizens of the United States perished in the conflict, it was and is unknown to the captors, and it was and is equally unknown to them whether any such were there. Before this vessel was thus taken, not a gun had been fired by the force under the orders of Colonel McNab, even upon this gang of pirates, much less upon any peaceable citizens of the United States; it must therefore have been a consciousness of the guilty service she was engaged in that led those who were employing her, to think an armed guard necessary for her defence. Peaceable citizens of the United States were not likely to be found in a vessel so employed at such a place and in such a juncture, and if they were there, their presence, especially unknown as it was to the captors, could not prevent, in law or reason, this necessary act of self-defence. Fifteen days had elapsed since the invasion of Upper Canada by a force enlisted, armed, and equipped, openly in the State of New York. The country where this outrage upon the laws of nations was committed is populous. Buffalo alone contains 15,000 inhabitants. The public authorities, it is true, gave no countenance to those flagrant acts, but did not prevent them, or in the slightest degree obstruct them further than by issuing proclamations which were disregarded.

Perhaps they could not, but in either case, the insult and injury to the inhabitants of Canada were the same, and their right to defend themselves equally unquestionable.

No wanton injury was committed by the party who gallantly effected this service. They loosed the vessel from the wharf, and finding they could not tow her against the rapid current of the Niagara, they abandoned the effort to secure her, set her on fire and let her drift down the stream.

The prisoners taken were a man who, it will be seen by the documents accompanying this despatch, avowed himself to be a subject of Her Majesty's, inhabiting Upper Canada, who had lately been traitorously in arms in that province, and having fled to the United States, was then on board for the purpose of going to the camp at Navy Island; and a boy who, being born in Lower Canada, was probably residing in the United States, and who, being afraid to land from the boat in consequence of the firing kept up by the guard on the shore, was placed in one of the boats under Captain Drew, and taken over to our side, from whence he was sent home the next day by the Falls ferry, with money given him to bear his expenses.

I send with this letter—

1st. A copy of my first communication to his Excellency Governor Marcy, to which no reply has reached me.

2nd. The official reports, correspondence, and militia general order respecting the destruction of the "Caroline," with other documents.

3rd. The correspondence between Commissary General Arcularius, of the State of New York, respecting the artillery belonging to the Government of the State of New York, which has been and is still used in making war upon this province.

4th. Other correspondence arising out of the present state of things on the Niagara frontier.

5th. The special message of Governor Marcy.

It will be seen from these documents that a high officer of the Government of the State of New York has been sent by his Excellency the Governor, for the express purpose of regaining possession of the artillery of that State which is now employed in hostile aggressions upon this portion of Her Majesty's dominions; and that being aided and favoured, as he acknowledges, by the most friendly co-operation which the commanding officer of Her Majesty's forces could give him, he has been successfully defied by this army of American citizens, and has abandoned the object of his mission in despair. It can hardly fail also to be observed by your Excellency, that in the course of this negotiation between Mr. Van Rensselaer and the Commissary General of the State of New York, this individual, Mr. Van Rensselaer, has not hesitated to place himself within the immediate jurisdiction of the Government, whose laws he had violated, and in direct personal communication with the officer of that Government, and has nevertheless been allowed to return unmolested to continue in command of American citizens engaged in open hostilities against Great Britain.

The exact position of affairs on our frontier may be thus described:—

An army of American citizens, joined to a very few traitors from Upper Canada, and under the command of a subject of the United States, has been raised and equipped in the State of New York against the laws of the United States and the treaties now subsisting, and are using artillery plundered from the arsenals of the State of New York in carrying on this piratical warfare against a friendly Power.

The officers and Government of the United States and of the State of New York have attempted to arrest these proceedings, and to control their citizens, but they have failed. Although this piratical assemblage are thus defying the civil authorities of both countries, Upper Canada alone is the object of their hostilities. The Government of the United States has failed to enforce its authority by any means, civil or military; and the single question, if it be a question, is, whether Upper Canada was bound to refrain from necessary acts of self-defence against a people whom their own Government either could not or would not control.

In perusing the message of his Excellency Governor Marcy to the Legislature of the State of New York, your Excellency will probably feel some degree of surprise that, after three weeks' continued hostility carried on by the citizens of New York against the people of Upper Canada, his Excellency seems to have considered himself not called upon to make this aggression the subject of remark for any other purpose than to complain of a solitary act of self-defence on the part of Her Majesty's province of Upper Canada, to which such unprovoked hostilities have unavoidably led.

I have, &c.,

(Signed) F. B. HEAD.

Sub-Inclosure 2 in Inclosure 2 in No. 1.

*Sir Francis Head to Governor Marcy.*

*Government House, Toronto,  
December 13, 1837.*

Sir,

YOUR Excellency has doubtless received intelligence, though not of an authentic character, of an insurrectionary movement, which, within the last few days, has been made in this province, and which the loyal

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feeling of the great mass of Her Majesty's subjects has enabled me promptly to suppress. Though an occurrence of this particular nature in a country immediately adjoining the State under your Excellency's Government, must naturally excite a considerable degree of interest, I might not have felt myself called upon to communicate with your Excellency upon the subject, if I had not received an official paper from the magistracy of the district of Niagara, that efforts are made by calling public meetings in Buffalo, to procure countenance and support among the inhabitants of that city to the efforts of the disaffected in Upper Canada.

I am perfectly persuaded that, under any circumstances, the public authorities in the United States would exert themselves to strengthen rather than to disturb the kind feeling which has for so many years united the nations of Great Britain and the United States, in the most amicable relations. And when I acquaint your Excellency that the armed party of traitors, which are now dispersed, during the few days that they remained embodied, were guilty of such unprovoked and wanton acts of murder, arson, and robbery, as disgusted their adherents, and occasioned their rapid desertion, I feel no doubt that, whatever may be justly done by the government of one friendly and enlightened nation towards restraining its subjects from disturbing the peace, and injuring the unoffending inhabitants of another, may confidently be expected from your Excellency. It is fit I should apprise your Excellency, that there is not at this moment, to my knowledge, within the whole extent of Upper Canada, a single body of men assembled with arms, or otherwise, in opposition to the Government.

Before the 5th of December, there had been about 500 or 600 men hastily got together at the instigation of a Mr. Mc Kenzie, the editor of a seditious newspaper here, but these have been wholly dispersed, and their leader, we understand, is now in Buffalo, endeavouring to excite there a support which he fails to meet with in this province.

I have, &c.,  
(Signed) F. B. HEAD.

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Sub-Inclosure 3 in Inclosure 2 in No. 1.

*Mr. Rogers to Colonel Mc Nab.*

Sir,

*Buffalo, December 29, 1837.*

OUR city has been thrown into commotion this morning by a report that certain forces under your command had within the last twelve hours landed upon Grand Island, within the territory of the United States. I have no confidence in the report, and believe it utterly without foundation; but to quell the apprehensions of our citizens, I have pledged myself, as an acting officer of the Government, to take every possible means to ascertain the truth of the report and to prevent such an occurrence. In the absence of the Marshall, I have commissioned Judge Mc Lean, of this city, to wait on you immediately, and to make you acquainted with the present attitude of affairs. The judge will bear this to you, and upon his statements and representations you can rely with the most perfect confidence. Be assured, Sir, that the public authorities upon this frontier will put forth every effort to restrain our citizens and to maintain a strict neutrality.

With great consideration, &c.,  
(Signed) W. H. ROGERS,  
*District Attorney.*

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## Sub-Inclosure 4 in Inclosure 2 in No. 1.

Colonel Mc. Nab to Mr. Rogers.

Sir,

Head-Quarters, Chippewa, December 29, 1837.

I HAVE the honour to acknowledge the receipt of your letter of this morning, just handed to me by the honourable Mr. Justice Mc Lean.

With respect to the report in the city of Buffalo, that certain forces under my command had landed upon Grand Island, an island within the territory of the United States, I can assure you that it is entirely without foundation, and that so far from having any intention of the kind, such a proceeding would be in direct opposition to the wishes and instructions of Her Britannic Majesty's Government in this colony, whose servant I have the honour to be.

Entering at once into the feelings which induced you to address me upon this subject, I beg leave to call your attention to the following facts: That so far from occupying or intending to occupy that, or any other portion of the American country, aggressions of a most serious and hostile nature have been made upon the forces under my command from that island. Two affidavits are now before me, stating, that a volley of musketry from Grand Island was yesterday fired upon a party of unarmed persons, some of whom were females, without the slightest provocation having been offered; that on the same day, one of my boats, manned by British subjects, passing along the American shore, and without any cause having being given, was fired upon from the American side, near Fort Schlosser, by cannon, the property, I am told, of the United States. I have also before me most positive information, that a steam-boat, called the "Caroline," was sold to the pirates, who have joined the rebels in Navy Island, and loaded with provisions and munitions of war, not only within your country, but immediately under the notice of the authorities of the United States, and of the citizens of Buffalo, whom you state to have been thrown into commotion by the report mentioned in your communication; and that these stores and munitions had been forwarded to Navy Island, for the use and assistance of the band of pirates assembled there, for the avowed purpose of invading and plundering the country, and dividing Her Britannic Majesty's lands amongst their deluded followers.

I have, &c.,  
(Signed) A. N. Mc NAB.

## Sub-Inclosure 5 in Inclosure 2 in No. 1.

Mr. Lockwood to Colonel Mc Nab.

Sir,

Chippewa, December 29, 1837.

I HAVE the honour to inform you, that this morning, at eight o'clock, about twenty men appeared on Grand Island (two miles below Black Creek) constructing a bridge across a ravine, and when they saw a party of men on the Canada shore watching their movements, they fired a volley of musketry towards them: after having completed their work, they left two men on the bridge, and retired towards the lower part of the island.

I have, &c.,  
(Signed) WILLIAM LOCKWOOD,  
First Lieutenant of the St. Catherine's  
Troop of Cavalry.



## Sub-Inclosure 6 in Inclosure 2 in No. 1.

*Lieutenant Elmsly to Colonel Mc Nab.*

Sir,

*Chippewa, December 29, 1837, 8 A.M.*

I HAVE the honour to inform you, that I have just returned from the neighbourhood of Navy Island, to which point I proceeded at daybreak, with my spy-glass, to inspect the position of the rebel forces. Soon after my arrival there, I perceived our eight-oared gig just rounding the northern extremity of Navy Island; she had been all round the island, and was fired at from all points of it with round shot, grape and canister, and musketry.

On our [Qu. boat] coming abreast of Fort Schlosser, I distinctly saw two discharges of heavy ordnance from a point on the main-shore on the American side, not far from that Fort. Assoon as our boat had passed, the firing ceased.

I have deemed it no more than my duty to call your attention to this fact, to the truth of which I am prepared to make affidavit whenever called upon.

I have, &c.,  
(Signed) J. ELMSLY,  
*Lieutenant, Royal Navy.*

## Sub-Inclosure 7 in Inclosure 2 in No. 1.

*Commissary-General Arcularius to Colonel Mc Nab.*

Sir,

*State of New York,  
Niagara Falls, January 5, 1838.*

INCLOSED I send you a copy of a letter received this morning from Van Rensselaer, that you may better appreciate the embarrassing situation in which I am placed.

From the first moment after my arrival on this frontier down to the present time, I have sedulously endeavoured to accomplish the purposes of my mission, by every pacific, mild, and moderate measure which my own, or the ingenuity and wisdom of my advisers, could suggest, and all without the slightest success.

For your kind and generous forbearance, and courtesy during the pendency of our negotiations, I tender you my grateful acknowledgments. I can ask for nothing more at your hands; and if the poor deluded beings who have encamped at Navy Island are slain, their blood be on their own head, not mine.

I have, &c.,  
(Signed) HENRY ARCULARIUS,  
*Commissary-General.*

## Sub-Inclosure 8 in Inclosure 2 in No. 1.

*Commissary Van Rensselaer to Commissary-General Arcularius.*

Sir,

*Head-Quarters, Navy Island,  
January 4, 1838.*

WHEN I accepted of the command of the forces now on this island, I found them in possession of ordnance and arms, some of which, I believe, were considered as donations from private individuals, others as loans, to be returned whenever the object which called us together might be accomplished.

Since then many additions have been made upon the same terms, as I understand it, but my avocations have been so manifold, it has not been in my power to know in all cases to whom we are obliged for the articles in question.

Since I had the honour to receive your communication of the 2nd instant however, I have consulted the Provisional Government, and am to make the necessary inquiries to ascertain whether any of the property on the island belongs to the people of the State of New York the earliest leisure opportunity; and if such should be the case, I am to take the necessary steps to put them in a position where they may be reclaimed, when I will communicate with you again.

(Signed) RENSS. VAN RENSSELAER.

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Sub-Inclosure 9 in Inclosure 2 in No. 1.

*Colonel Mc Nab to Commissary-General Arcularius.*

*Head-Quarters, Chippewa,  
January 2, 1838.*

Sir,

I HAVE this moment had the honour to receive your communication of this day, in which you solicit a suspension of an attack on the assemblage now lodged on Navy Island, until you can demand the surrender of any, and all, the arms, ordnance, and ordnance stores belonging to the people of the State of New York, of which the assemblage have obtained the clandestine possession, with permission to withdraw the same if they shall be given up, and assuring me that the above application will be made immediately, and without any delay, on your part, or on the part of those citizens to whom the communication is addressed.

As the above application evinces a noble desire on the part of the State of New York sincerely to co-operate with the Government of Her Britannic Majesty in maintaining the laws of nations against the atrocious attack of a band of pirates, who have equally insulted the American as well as the British authorities, by plundering their property, and by openly setting their laws at defiance; I lose no time in assuring you, that having been directed cordially to co-operate with the authorities, as well as with the citizens of the United States, in maintaining the treaty which happily exists between them and the British Empire, and to do everything in my power to avoid, if possible, the effusion of human blood, I shall have great pleasure in suspending my attack on the pirates on Navy Island, and will cheerfully consent on the part of Her Majesty's Government that any arms or property they may have stolen from your Government, or from your citizens, may be withdrawn by you from the island for the purpose of being immediately restored to their rightful owners.

Relying upon receiving from you the earliest possible notice of the result of your laudable exertions, and trusting that the same good feeling which has determined your Government to deprive these people of the arms of the United States, which you acknowledge they have clandestinely possessed themselves of, will induce you to prevent them from receiving from your shores any further assistance or supplies,

I have, &c.,

(Signed) ALLEN Mc NAB,  
*Colonel commanding Her Majesty's Forces  
on Niagara Frontier.*

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Sub-Inclosure 10 in Inclosure 2 in No. 1.

*Deposition of Andrew Drew.*

*District of Niagara to Wit.—Andrew Drew, of the village of Woodstock, in the district of London, Esquire, Commander in the Royal Navy, deposeth and saith, that on the night of the 29th of December last, he*

proceeded by direction of Colonel Allen Napin Mc Nab, commanding Her Majesty's forces on the Niagara Frontier, to take possession of the steam-boat "Caroline," and that deponent did take possession of her accordingly; that he immediately gave orders for her to be cast off from the wharf to which she was moored, and to be set on fire; that previously to her being cast off from the wharf, the cabin below was searched and the colours brought from it; that there was a man found lying in the cabin or deck, severely wounded, and that he was carefully lifted on to the wharf before the vessel was unmoored; that one fire was made in the cabin abaft, and another below in the forepart of the vessel, where the machinery was, and where a quantity of cord-wood was piled together, which was lighted from the coals of the fire-place; that full ten minutes elapsed before the fire started into a blaze, and that one of deponent's own men was there the whole time kindling the fire; that deponent does not believe that any living being was on board the "Caroline" after his party left her, and that it was impossible to suppose any person would have remained there knowing that a fire was lighting to burn the vessel; that deponent was the last person who left the vessel except one, and that man stepped into the boat immediately after him, and that deponent does not believe that any person on board the "Caroline" jumped or was thrown overboard.

(Signed)

ANDREW DREW,  
Commander, Royal Navy.

Sworn before me at Chippewa, this

10th day of January, 1838. (Signed)

JAMES CUMMINGS,  
Justice of Peace.

Sub-Inclosure 11 in Inclosure 2 in No. 1.

*Deposition of Luke Walker.*

*Upper Canada, District of Niagara to Wit.*—*Luke Walker*, of the city of Buffalo, in the State of New York, in the United States of America, labourer, maketh oath, and saith, that he was on board the steam-boat "Caroline" last night, when she was captured; that there were about thirty armed men on board; that the said boat, as he understood, was the property of the patriots on Navy Island. She had been employed during the day in taking provisions and stores in the island; that deponent was in the cabin lying down when he heard the watch or deck cry out, "Hurra boys, here comes the enemy;" that he heard the captain say to the men, "Sleep well to night, for we shall have hard work to-morrow; there are many gentlemen coming from Rochester, and we shall have to take them over."

(Signed)

his  
LUKE WALKER.  
mark.

Sworn before me at Chippewa, first having  
been fully read and explained to him,  
this 30th December, 1837. (Signed)

W. H. MERRITT,  
Justice of Peace.

Sub-Inclosure 12 in Inclosure 2 in No. 1.

*Deposition of Sylvanus Fearnas Wrigley.*

*Upper Canada, District of Niagara to Wit.*—*Sylvanus Fearnas Wrigley*, late of the township of Dumfries, in the district of Gore, labourer, deposeseth and saith, that he is a British subject; that he enlisted with Charles Duncombe and joined him in the London district; that after Duncombe's men were dispersed, he went with Alfred Luce, another of Duncombe's men, down to Chippewa, crossed the Niagara river to join the patriots; that he was on board the steam-boat "Caroline," with the

said Alfred Luce, on their way to Navy Island, at the time she was captured; that he believes said Luce was killed in the engagement; that he understood the boat to be the property of the patriots; that on the same day she was captured she had taken a six-pounder to the island from Fort Schlosser on the American shore, with provisions and other necessaries for Mc Kenzie's army; that the flag they had on board was a British flag; that the deponent saw the cannon put on board; that the cannon as he understood was the property of the United States, and that it was in charge of one Parker, who this deponent understood was brother to the Parker now in goal in Upper Canada, for high treason, and who formerly kept a shop in Hamilton; said Parker had several recruits for Mc Kenzie with him; that when the boats approached the steam-boat, a rifle was fired at them from the steam-boat; that he then ran forward to the front of the steam-boat, when he was made a prisoner.

(Signed) SILVANUS FEARN'S WRIGHTLEY.

The only firelock deponent saw on board was muskets and rifles.

(Signed) SILVANUS FEARN'S WRIGHTLEY.

Sworn before me at Chippewa, this

30th day of December, 1837.

(Signed) W. H. MERRITT,

*Justice of Peace.*

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Sub-Inclosure 13 in Inclosure 2 in No. 1.

*Deposition of George Nolop.*

*Upper Canada, District of Niagara to Wit.*—George Nolop, of the village of Brantford, in the district of Gore, yeoman, deposeseth and saith, that he is a British subject; that on the 28th of this present month he went over on business to the United States; that on arriving at Fort Schlosser in the said United States, he was taken prisoner by a body of armed men, who said they were citizens of the United States; that he, was put under guard and detained for about twenty-four hours; that he this deponent, repeatedly applied to be liberated, but was told by the guard that they would not let any damned tory go; that whilst he was a prisoner at Fort Schlosser, he saw a six-pounder, belonging, as his guard informed him, to the United States, taken from the fort, put on board the steam-boat "Caroline," and taken to Navy Island; that while he was prisoner, he heard the men belonging to the boat state that the boat belonged to the patriots, and that she was to be employed in taking stores, guns, and other necessaries to Navy Island, for the use of the patriot army; that while deponent was a prisoner some armed men came up to the tavern where he was, and said that the tories had got the boat; that the men turned out and fired upon the persons they called tories; that deponent heard from his guard that there were about thirty armed men on board the boat; that during the confusion he made his escape; that when the men of the boat went down to man her, they marched in regular order; that in the guard-room in the tavern where he was confined, there was a cask filled with six-pound shot, and two casks of grape and canister, and the men belonging to the steam-boat said, that said shot had been taken out of the arsenal at Buffalo, and was sent to the patriots; that one of the crew told this deponent after the steam-boat had been taken, that he was sentry on deck when the attack was made, and demanded the counter-sign several times from the attacking party, but they did not give it.

(Signed) GEORGE NOLOP.

Sworn before me at Chippewa, this

30th day of December, 1837.

(Signed)

GEORGE RYKERT,

*Justice of Peace.*

## Sub-Inclosure 14 in Inclosure 2 in No. 1.

*Deposition of James Hood.*

*District of Niagara to wit.*—*James Hood*, late of the city of Buffalo, in the State of New York, mariner, but now of the village of Chippewa, in the province of Upper Canada, maketh oath and saith, that he was at Buffalo when the steamer "Caroline" was cut out of the ice; he saw the men working at her, and in his opinion the number employed could not be much less than one thousand; that it was generally understood that they were volunteers working for Mc Kenzie and the patriots on Navy Island, and it was the common talk of the town that the "Caroline" was intended for the use of the patriots on the island; that he, this deponent, saw on board of the said boat when she left, muskets, swords, and flour; that he asked Captain Appleby who commanded the boat, where she was going; and that Appleby said to Dunkirk, which is forty-five miles above Buffalo; that deponent replied that he believed the Dunkirk he meant would be in another direction, meaning Navy Island; that the captain then smiled, and made no reply. Deponent further saith, that he has heard many rich people in Buffalo say, that if the patriots would fight they would find them.

(Signed) JAMES HOOD.

Sworn before me at Chippewa, in the district  
of Niagara, this 8th day of January, 1838. (Signed) WARNER NELLES,  
*Justice of the Peace.*

## C

## Inclosure 3 in No. 1.

*Mr. Benton to Mr. Forsyth.*

Sir,

*Buffalo, January 8, 1838.*

I HAVE the honour to hand you for the information of the President, copies of sundry affidavits relating to the destruction of the steam-boat "Caroline" at Schlosser, within the territory of the State of New York, the originals of which are retained in my possession. I am informed by H. W. Rogers, Esq. of this city, that a communication in relation to the burning of the steam-boat and other matters connected with that unfortunate event have been communicated to the President.

I am, &c.,  
(Signed) N. S. BENTON.  
*United States' Attorney.*

## Sub-Inclosure 1 in Inclosure 3 in No. 1.

*Deposition of Samuel Longley.*

State of New York, Eric County Sessions.

*Samuel M. Longley*, residing in Buffalo, being sworn, deposes and says, that he has just returned to this city from Canada; that whilst there he was in the village of Queenstown; that he was in said village on the evening of the 30th of December, 1837; that whilst in the bar-room of the Queen's Hotel, where he put up, he saw there a number of persons, among whom was a man whom this deponent was informed was Lieutenant Mc Donald or Mc Donough of the militia; also a young and tall man of the name of Allen, as this deponent was informed. There were several others with the said Mc Donald and Allen. The said Mc Donald or Mc Donough stated in the presence of this deponent, that he was one of the party who crossed from the Canada side to Schlosser to attack the

steam-boat "Caroline," that there were in all from forty to seventy persons in the boats which crossed; that there were four boats in all that crossed; that the boats were under the command of three naval officers; that the enterprise was undertaken to excite the people of the United States to war; that they were acting under authority; that before leaving Canada they knew where the boat lay; that on approaching the boat they were hailed by the sentry on board the boat; that they replied "Friends;" that they immediately boarded and commenced firing upon the persons on board the boat, who were then just rushing up from the cabin. The said McDonough or McDonald further stated, that the names of the naval officers who were in command, were Warren, Mosier, and Drew. On answering to the sentinel that they were friends, they were fired upon by the sentinel from the steam-boat. They immediately fired at and killed him; that on ascending the boat they commenced an indiscriminate slaughter, giving no quarter. A man of the name of Arnold attacked a man on board the steam-boat, who resisted the said Arnold, received a wound. He then knocked down the man and with his foot held him down, and with his pistol beat the man's face until his teeth were all beaten out; that Arnold then knocked his brains out with his pistol, and then continued beating him until he had shattered his pistol; that Arnold carried the pistol over to Chippewa all covered with the brains of the murdered man, and boasted of the deed, exhibiting his pistol as proof of the fact; that after firing the boat and cutting her loose, the said Warren remained on board the boat to prevent any persons who might be below from escaping; that on several persons coming up from the cabin they were all stabbed with a sword by the said Warren; that the said Warren remained on board the steam-boat for the purpose of preventing said escape, until he was obliged to leave the boat on account of the fire. The said McDonough further stated, that they knew that the persons whom they attacked were citizens of the United States; that they took two prisoners, and that they were now at Chippewa, and that violent means had been used to force the said prisoners to unfold the plans of the force on Navy Island and on the frontier. The said McDonough further stated, that they knew that the boat was from Buffalo, and that she did not belong to Navy Island; that they expected that there were a great many persons on board, and that having gone over in order to murder so many persons, they were disappointed in finding so few persons on board; that there were killed twelve or fourteen persons. The said Allen, who was in company with the said McDonough or McDonald, stated the same matters and facts as McDonough. They were then on their way to Coburg where they resided.

(Signed) S. M. LONGLEY.

Sworn before me this 1st day of  
January, A.D. 1838.

(Signed) H. A. SALISBURY, *Commissioner of Deeds for Erie County.*

Sub-Inclosure 2 in Inclosure 3 in No. 1.

*Deposition of Henry Emmons.*

State of New York, County of Niagara Sessions.

*Henry Emmons*, of the town of Niagara in said county, being duly sworn, says, that he is bar-tender at the public-house kept by James Field, at Schlosser in said county, and has been such bar-tender for one month preceding the day of the taking this affidavit; that there never has been an individual detained by a military guard at Schlosser during any part of that time. And this deponent further says, that from his employment at Schlosser it would be impossible for any person to be detained there without the knowledge of this deponent; that particularly no such person as George Nolo ever was known to be at Schlosser in any manner.

And this deponent further says, that he has read a copy of George Nolop's affidavit taken at the district of Niagara in Upper Canada, on the 30th day of December last, and that no part of the same is true to the knowledge or belief of deponent. And this deponent further says, that there is no fort at Schlosser or nearer that place than Fort Niagara, a distance of sixteen miles from Schlosser; that there never was a cask filled with six-pound shot, or two casks of grape and canister in the house or near the premises where this deponent resides. And this deponent further says, that no person fired a gun at the persons engaged in taking the boat "Caroline," and massacreing the persons on board of her, and that there were no armed men near the boat at the time she lay at the wharf; that so far as he saw or believes, no guns or arms were carried on board said "Caroline" by the persons going on board to sleep the night she was taken.

(Signed) HENRY EMMONS.

Sworn and subscribed this 1st day of  
January, 1838, before me, (Signed) JAMES M. SMITH, JUN.,  
Commissioner of Deeds.

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Sub-Inclosure 3 in Inclosure 3 in No. 1.

*Deposition of Benjamin Holt, Milton Keyes, Alanson Liscom, &c.*

State of New York, County of Niagara Sessions.

*Benjamin Holt, Milton Keyes, Alanson Liscom, William Chappell, E. Burton Reynolds*, all of Schlosser in said county, being duly sworn, say, that they have heard the foregoing affidavit of Henry Emmons read, and that the same is true in all respects from their knowledge and belief, and that each and all of these deponents were at Schlosser at the time the steam-boat "Caroline" was taken and burnt.

(Signed)

BENJAMIN HOLT,  
E. BURTON REYNOLDS,  
ALANSON LISCOM,  
MILTON KEYES,  
WILLIAM CHAPPELL.

Sworn and subscribed this 1st day of  
January, 1838, before me, (Signed) JAMES M. SMITH, JUN.,  
Commissioner of Deeds.

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Sub-Inclosure 4 in Inclosure 3 in No. 1.

*Deposition of Philo Smith.*

I HEREBY certify that I heard several of the officers under the command of Colonel McNab at Chippewa, say on Saturday morning the 30th instant, that the expedition which took the steam-boat "Caroline" on the night previous had acted properly; and that the men did perfectly correct in going into an American port and massacreing the persons on board the steam-boat "Caroline." That there were two officers who made such expressions, and that he knows they were officers from the fact that they were dressed in uniform, and had on one or two epaulettes and iron swords; that they said the reason of their sending to take the boat was, that she was furnishing and carrying arms and provisions to the troops on Navy Island which they gave as a justification. That deponent resides at Chippewa in Upper Canada, and left there yesterday morning, and that he did not know the names or rank of the officers who made such expressions.

(Signed) PHILO S. SMITH.

Sworn and subscribed before me, this  
31st day of December, 1837. (Signed) N. K. HALL,  
Alderman of the 5th Ward of the  
City of Buffalo.



Inclosure 4 in No. 1.

*Mr. George Pratt to the President of the United States.*Sir, Rochester, January 10, 1838.

COLONEL McNAB having avowed that the steam-boat "Caroline" was destroyed by his orders, justifies himself by the plea, sustained by affidavits, that hostilities were commenced from the American shore.

I inclose you the affidavits of four respectable citizens of Rochester who were present at the time, who contradict the assertions of Colonel McNab.

I have, &c.,  
(Signed) GEORGE W. PRATT.

Sub-Inclosure 1 in Inclosure 4 in No. 1.

*Deposition of Amos Sawyer, Matthew Leffingwell, Daniel Osborn, and Nathan Blossom.*

THE Undersigned, citizens of the United States, residing in the county of Monroe, having had our attention called to the official statement of Colonel A. N. McNab, accompanied by documents, represent that they all staid at Schlosser, on the night of the 28th day of December last. That there is but one dwelling at or near all Fort Schlosser, which is the tavern kept by James Field, and at which they staid on the night aforesaid; that on the said night there was no body of armed men at or about the said tavern, and there was no person at that place detained as a prisoner, or kept under guard, or confined in any way, as represented in the affidavit of George Nolop, accompanying the communication of Colonel McNab; that old Fort Schlosser is entirely in ruins, and there was no fortification of any kind at said place, or any garrison or military station at that place on the evening or night of the 28th day of December aforesaid.

That on the night aforesaid the tavern at which these deponents staid was crowded, and these deponents all slept on the floor, and rose very early in the morning; that just about the time of their rising as aforesaid, they heard the discharge of cannon either from Navy Island or the main land of Upper Canada; and these deponents immediately went out, and down to the shore of the Niagara River; that no cannon or gun of any kind was discharged from the American shore during the morning of the 29th day of December last.

The Undersigned, Amos Sawyer, further states, that whilst standing on the shore, and after his companions separated from him some distance, he saw a boat coming round the upper end of Navy Island, and pass down the river between that island and the lower end of Grand Island; that whilst the boat was so passing round said Navy Island, and down the river as aforesaid, several guns or cannon-shots were discharged from said Navy Island towards said boat; that he, said deponent, continued to watch said boat, until she arrived at Chippewa, on the main land of the Canada shore; that said Sawyer has no doubt that said boat was the same under charge of Lieutenant J. Elmsley, of the Royal Navy, referred to in his letter to Colonel McNab; that from the time the said boat appeared in sight at the upper end of Navy Island until she landed at Chippewa, there was no cannon or gun of any kind discharged from Fort Schlosser, or from the American shore at or near said place, or within hearing at said place.

(Signed) AMOS SAWYER.  
MATTHEW LEFFINGWELL.  
DANIEL OSBORN.  
NATHAN N. BLOSSOM.



## Monroe County Sessions.

The above-named Amos Sawyer, Matthew Leffingwell, Daniel Osborn, Nathan H. Blossom, being by me sworn, deposed and said, that the statements above mentioned by them respectively made and subscribed, are correct and true.

(Signed) ELSHA JOHNSON,  
Sworn this 9th day of January, 1838. Mayor of Rochester.

## Inclosure 5 in No. 1.

*Mr. Rogers to Mr. Forsyth.*

Sir,

*Buffalo, January 16, 1838.*

YOUR'S, of the 6th instant, addressed to Mr. Benton, United States' Attorney for the Northern district of this State, came to hand on Saturday last. Mr. Benton had previously left this city for Albany, whither he has gone to attend court, which he deemed absolutely necessary for the public interests, giving me instructions to act in his behalf during his absence. I shall proceed immediately to collect the information desired, so far as it is in my power to do so, and keep you constantly advised of the progress of my efforts. Inclosed I send you copies of affidavits taken subsequently to the transmission of the first documents in reference to the Schlosser affair, some of which, and especially the one made by Appleby and others, were intended to meet certain points in the affidavits taken under the direction of Colonel McNab, with copies of which you have been already put in possession by the Canadian authorities, as I understand. I have written for, and shall probably receive to-morrow, a certified copy of the minutes of the grand jury taken by the district attorney of Niagara county upon the complaint preferred against some of the prisoners engaged in the capture of the "Caroline," and the murdering of her inmates, which I will immediately forward to your department, and will endeavour at the same time to send other affidavits, throwing light upon the same transaction. It is possible you have already received from Mr. Benton copies of some of the affidavits herewith sent, but for greater certainty I forward at this time all now in my possession.

I have, &c.,  
(Signed) H. W. ROGERS,  
District Attorney for the County of Erie, V.

## Sub-Inclosure 1 in Inclosure 5 in No. 1.

*Deposition of Messrs. Gilman Appleby, William Seaman, jun., John C. Haggerty, &c.*

State of New York, Erie County Sessions.

*Gilman Appleby, William Seaman, jun., John C. Haggerty, Charles F. Harding, William Kennedy, William Wells*, being duly sworn, say, and each for himself says, that, since making affidavits on the 30th instant, in the county of Niagara, in relation to the outrage upon the steam-boat "Caroline," at Fort Schlosser, they have heard certain papers read purporting to be copies of affidavits made at Chippewa, Upper Canada, on the 30th instant, by Luke Walker and Sylvanus Fearnies Wrigley, before William H. Merritt, esquire; and they further say, that there were no armed men on board of said steam-boat "Caroline" on the night of the 29th instant, except the British force which attacked said steam-boat. And the said Gilman Appleby says, that he did not say, and the other deponents say, that they did not hear any person say that night, "Sleep

well to-night, for we shall have hard work to-morrow; there are many gentlemen from Rochester, and we shall have to take them over," or any such expression.

These deponents also say, each for himself, that the only flag on said steam-boat "Caroline" was the American flag; that they heard no firing from the steam-boat at any time before or during the fight, for they had no fire-arms on board with which they could fire, except as stated below in this affidavit.

These deponents further say, and each for himself says, that it was not understood on board of said steam-boat, that she was the property of the patriots on Navy Island, but it was well understood on board that she was the property of William Wells, of the city of Buffalo.

The said John C. Haggerty says, that he had in his pocket a pistol, with about a four-inch barrel to it; but it was not loaded, and was not out of his pocket during the night, and he had nothing with which he could have loaded it.

And these deponents severally say, that they are citizens of the United States, and further say not.

(Signed)

GILMAN APPELBY.  
WILLIAM SEAMAN, JUN.  
JOHN C. HAGGERTY.  
C. F. HARDING.  
WILLIAM KENNEDY.  
WILLIAM WELLS.

Sworn before me, December 31, 1837.

(Signed)

D. TILLINGHAST,

*Sup. Commissioner, &c.*

*Erie County Sessions.*—I certify the foregoing to be a true copy of an original affidavit taken before me this day.

(Signed)

D. TILLINGHAST,

*Sup. Commissioner, &c.*

*Buffalo, December 31, 1837.*

Sub-Inclosure 2 in Inclosure 5 in No. 1.

*Deposition of Norman Barnum.*

State of New York, County of Erie Sessions.

*Norman Barnum*, being duly sworn, says, that on the 29th day of December instant, this deponent was at the British encampment at Chippewa, in Upper Canada; that during the afternoon of that day, this deponent saw the steam-boat "Caroline" passing from Schlosser, on the American or United States' side of the Niagara River, to Navy Island; that immediately after the "Caroline" was seen so passing, a great excitement prevailed among the officers and soldiers at Chippewa, under the command of Colonel Allan McNab; that it was there determined by some of the officers under the command of Colonel McNab to seize the said "Caroline," and the command of the expedition was given to Captain Mosier. That this deponent further says, that he heard distinctly Colonel Allan McNab say to the officers engaged in said expedition, that if the cavalry soldiers would let their swords and pistols go, that he would be personally responsible for their return.

And this deponent further says, about eight o'clock in the evening, twelve boats left Chippewa, with the intention of seizing the said steam-boat, and bring her a prize to Chippewa; that at the time the said boats started, the lights from said steam-boat were distinctly seen, and it was well known that said steam-boat lay at the wharf at Schlosser.

And this deponent further says, that among the officers and persons engaged in said expedition, were said Mosier, Rowland McDonald, and Alexander McLeod; and that the said McLeod boasted when he returned to Chippewa, that his sword had drunk the blood of two men on board

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the said steam-boat. And this deponent further says, that soon after said boats had left Chippewa, preparations were made to build beacon-lights a little above Chippewa; and soon after the signal was given from the boats, two beacons were light, and the boats returned to them.

And this deponent further says, that, from what he heard and saw during the day and night at Chippewa, he has not the least doubt but that Colonel McNab was acquainted with and approved of said expedition.

(Signed) NORMAN BARNUM.

Sworn and subscribed this 31st day  
of December, 1837, before me, (Signed)

N. K. HALL,  
Alderman of the 5th ward of the  
City of Buffalo.

Sub-Inclosure 3 in Inclosure 5 in No. 1.

*Deposition of Luke Walker.*

State of New York, County of Niagara Sessions.

*Luke Walker*, of Buffalo, in the county of Erie, being duly sworn, deposes and says, that he is nineteen years old; that on Saturday morning, the 30th of December, 1837, about half-past twelve o'clock, he was on board the steam-boat "Caroline," which was at that time lying at the wharf called Schlosser, landing about two miles and a half from the Falls of Niagara, in the town of Niagara, in the county of Niagara; that on board of the said boat this deponent thinks there was about twenty-five or thirty men; that this deponent at the time last aforesaid was awoke by some persons breaking in doors and windows of said boat; that he immediately got up and went on deck, and saw a number of armed men—should think about forty or fifty; that the men were armed with pikes, swords, and pistols; that this deponent saw one man wounded who lay on deck; that this deponent was seized and thrown down on said man, and one of the men who were on said boat threatened to run this deponent through, unless he would tell where the men were who were on the boat. This deponent was thrown down upon the wounded man, and where he came in contact with him was covered with blood; heard the man groan, and say "Oh dear!" This deponent was taken into one of the boats that contained the men who boarded the steam-boat "Caroline," and carried to Chippewa, in Upper Canada, to the officer's quarters. This deponent was asked if he knew of the steam-boat "Caroline," having carried anything to the island, and how many men there were on Navy Island, and many other questions, which this deponent does not recollect; that the men in said boats towed said boat into the river, that they then set fire to it, and it went over the Falls. And this deponent further says, that before they took the boat from the shore and towed her into the river, they set fire to it in the cabin, on deck, and could not get it to burn until they tore down some of the doors and used them for kindling wood; that when the men came on said boats, this deponent heard some of them say, "give no quarters;" that the men on board the steam-boat had no arms; that this deponent went on board to sleep; that one of the men on board was called Mc Cormick and Zealand; witness heard other names mentioned, but does not recollect them.

One of the men said he went on to the wharf and turned over a negro man that was dead: that the men who boarded the "Caroline" remained at the landing about three quarters of an hour before they took her off; that at the time they landed at Chippewa there was a large body of men collected at the place of landing, who had a large fire for the purpose of affording a light to the men who had boarded and burned the "Caroline;" that when some of the men who had boarded the "Caroline" landed, those assembled gave them cheers; that while on the Canadian side he heard many of them say that the burning of the "Caroline" was one of the best

acts that could have been done; that if the Yankees want to war with them they will catch it; that they detained him, witness, until the afternoon of Saturday, 31st of December, and then gave witness a pass.

(Signed) LUKE <sup>his</sup> WALKER.  
mark.

Subscribed and sworn January 1st, 1838,  
before me.

(Signed) C. W. SMITH,  
Commissioner of Deeds, &c.

Sub-Inclosure 4 in Inclosure 5 in No. 1.

*Deposition of James H. King.*

State of New York, Erie County Sessions.

*James H. King*, of the city of Buffalo, being duly sworn, says, that he made an affidavit on the 30th December last, in relation to the outrage on the steam-boat "Caroline," on the night of the 29th December last, at Schlosser; that he has heard the foregoing affidavit made by Gilman Appleby, William Seaman, junior, John C. Haggerty, Charles F. Harding, William Kennedy, and William Wells, and the copies of affidavits of Luke Walker and Sylvanus Fearness Wrigley, mentioned therein, read; that the facts stated in said affidavit of Gilman Appleby and others are true; that deponent is a citizen of the United States.

(Signed) JAMES H. KING.

Sworn before me January 8th, 1838.

(Signed)

D. TILLINGHAST,  
Sup. Commissioner, &c.

*Erie Sessions.*—I certify that the foregoing is a copy of an affidavit this day taken before me.

(Signed)

D. TILLINGHAST,  
Sup. Commissioner, &c.

Buffalo, January 8th, 1838.

Sub-Inclosure 5 in Inclosure 5 in No. 1.

*Deposition of Alford Luce.*

State of New York, Erie County Sessions.

*Alford Luce*, being duly sworn, deposes and says, that his late residence has been in the town of Dumfries, Gore district, Upper Canada, that he, in company with Sylvanus Fearness Wrigley, was on board the steam-boat "Caroline" at Schlosser, on the evening of the 29th of December last; that he had retired to sleep in the upper-deck cabin at an early hour; about midnight he was awakened by one of the watch on board, and was requested to give up his berth to him; he accordingly did so, and went down into the lower cabin; in a short time, Mr. Kennedy, another of the steam-boat watch, made an outcry to Captain Appleby, that boats full of men, calling themselves friends, were coming up to the "Caroline;" this deponent immediately ran upon deck, and discovered the boats coming under the stern of the "Caroline," along the side of the wharf, and the men commenced jumping on the wharf; at this instant deponent passed off the forward part of the said boat upon the open floor of the warehouse, and while going to the main dock, two muskets were fired from the boats, and Mr. Durfee, who was about six feet from deponent, a little in the rear, fell; deponent escaped to the road; heard firing and clashing of arms. This deponent further says, that there were no arms nor armed men on

board the "Caroline," nor were there any upon the wharf, nor upon the shore.

Deponent has read the affidavit attributed to the above-named Sylvanus Fearness Wrigley, and from his knowledge of him, being an intimate acquaintance and relative, is positive that if he made said affidavit the material part must have been from compulsion and terror.

(Signed) ALFORD LUCE.

Sworn before me this 12th day of  
January, A.D. 1838.

(Signed) MILTON Mc NEIL,  
*Commissioner of Deeds of Erie County.*

Sub-Inclosure 6 in Inclosure 5 in No. 1.

*Deposition of Parkhurst Whitney.*

State of New York, County of Niagara Sessions.

*Parkhurst Whitney*, of the town and county of Niagara, being duly sworn, doth depose and say, that on the 4th day of January, in the year 1836, at Chippewa, in the province of Upper Canada, he had an interview with Sir Francis Bond Head, Lieutenant-Governor of said province; that in the course of conversation with said Sir Francis Bond Head, the capture and destruction of the steam-boat "Caroline," and the killing of some of her inmates, was spoken of and conversed about freely, both by this deponent and the said Sir Francis Bond Head; that in such conversation it was understood and admitted by the said Sir Francis Bond Head that the said "Caroline" was captured and taken at Schlosser, and within the United States; that the said Sir Francis Bond Head expressly and distinctly stated to this deponent, that he fully justified and approved of the capture and destruction of the said "Caroline," and of the circumstances under which it was effected; that the said "Caroline" was a piratical vessel, and that it was alike the duty of his Government and that of the United States, and all others, to seize her wherever found; that this conversation took place at the head-quarters of Colonel Mc Nab, commanding Her Britannic Majesty's forces at Chippewa aforesaid, and further this deponent saith not.

(Signed) PARKHURST WHITNEY.

Subscribed and sworn, January 14, 1838,

before me,

(Signed) W. HUNT,  
*First Judge of Niagara Court.*

Sub-Inclosure 7 in Inclosure 5 in No 1.

*Deposition of Samuel Chase, John Hibbard, and John Vail.*

State of New York, County of Erie Sessions.

*Samuel Chase* and *John Hibbard*, of the city of Buffalo, in the said county of Erie, and *John Vail*, of Hanover, in the county of Chautauque, being duly sworn, depose and say, and each for himself says, that he has known the steam-boat "Caroline" for at least four years next previous to her capture and destruction by British troops at or near Schlosser, on the 30th day of December last past; and these deponents each for himself say, that they were well acquainted with the construction of the said steam-boat and with her machinery, and that she was worth, at the time of capture and destruction aforesaid, exclusive of her furniture, the sum of 4,500 dollars; these deponents further say, that they have understood, and verily believe, that the said steam-boat, at the time of her capture and destruction as aforesaid, was owned by William Wells, of the city of Buffalo, in the county of Erie aforesaid, and that a part of the furniture and other property, then in the said steam-boat, was also owned by the

said William Wells, to wit, one table, worth, in the opinion of these deponents, the sum of six dollars, one stove worth thirty-five dollars, an awning worth ten dollars, oil and jugs worth ten dollars, one carpet worth five dollars, bar furniture worth five dollars, one over-coat worth twenty-five dollars, an oil-can, four lamps, four brooms, and wash-bowl, worth in the aggregate at least the sum of four dollars; and further these deponents say not.

(Signed) SAMUEL CHASE,  
J. HIBBARD,  
JULIA VAIL.

Subscribed and sworn, January 16, 1838,  
before me, (Signed) ISAAC HUMPHREY,  
*Judge of the Erie County Courts.*

Inclosure 6 in No. 1.

*Mr. Benton to Mr. Forsyth.*

*United States, District Attorney's Office,  
Little Falls, February 16, 1838.*

Sir,

I HAVE the honour to hand you the affidavit of three of the individuals residing at Rochester, which in my letter of the 6th instant from Buffalo I informed the department I had taken measures to procure. Mr. Blossom, the fourth person, being absent, his verification of the facts stated was not procured, nor is it very material in any way as he would not, I am told, swear to anything more than Messrs. Osborn and Leffingwell have done.

My object in procuring this proof was, to show by it that Lieutenant J. Elmsley, Royal Navy, was mistaken, wholly and entirely so, when he made the statement that he was fired upon from the main American shore on the morning of the 29th of December last in passing round Navy Island.

I am, &c.,  
(Signed) N. S. BENTON,  
*United States' Attorney.*

Sub-Inclosure in Inclosure 6 in No. 1.

*Deposition of Messrs. Amos Sawyer, Daniel Osborn, and  
Matthew Leffingwell.*

*Rochester, New York, February 13, 1838.*

THE Undersigned citizens of the United States, residing in the county of Monroe, having had our attention called to the official statement of Colonel A. N. Mc Nab, accompanied by documents, represent that they all stayed at Schlosser on the night of the 28th day of December last; that there is but one dwelling at or near Fort Schlosser, which is the tavern, kept by James Field, and at which they stayed on the night aforesaid; that on the said night there was no body of armed men at or about the said tavern, and there was no person at that place detained as a prisoner, or kept under guard, or confined in any way as represented in the affidavit of George Nolop, accompanying the communication of Colonel Mc Nab. That old Fort Schlosser is entirely in ruins, and there was no fortification of any kind at said place, or any garrison or military station at that place, on the evening or night of the 28th day of December aforesaid.

That on the night aforesaid, the tavern at which these deponents staid was crowded, and these deponents all slept on the floor, and rose very early in the morning; that just about the time of their rising as aforesaid, they heard the discharge of cannon, either from Navy Island or

the main land of Upper Canada; and these deponents immediately went out and down to the shore of the Niagara River; that no cannon or gun of any kind was discharged from the American shore during the morning of the 29th day of December last.

The Undersigned, Amos Sawyer, further states, that whilst standing on the shore, and after his companions separated from him some distance, he saw a boat coming round the upper end of Navy Island, and pass down the river between that island and the lower end of Grand Island; that whilst the boat was passing round said Navy Island and down the river as aforesaid, several guns or cannon-shots were discharged from said Navy Island towards said boat; that he, said deponent, continued to watch said boat until she arrived at Chippewa, on the main land of the Canada shore; that said Sawyer has no doubt that said boat was the same under charge of Lieutenant J. Elmsley, of the Royal Navy, referred to in his letter to Colonel Mc Nab; that from the time the said boat appeared in sight at the upper end of Navy Island, until she landed at Chippewa, there was no cannon or gun of any kind discharged from Fort Schlosser, or from the American shore at or near said place, or within hearing of said place.

(Signed) AMOS SAWYER,  
DANIEL OSBORN,  
MATTHEW LEFFINGWELL.

State of New York, Monroe County Sessions.

On the 13th day of February, 1838, before me the Subscriber, Recorder of Rochester, came Amos Sawyer, Matthew Leffingwell, and Daniel Osborn, and made solemn oath that the foregoing statement of facts in print, subscribed by them, is true.

(Signed) ISAAC HILLS.

Inclosure 7 in No. 1.

*Mr. Benton to Mr. Fort.*

Sir,

*Buffalo, February 6, 1838.*

IN obedience to the instructions contained in your letter of the 6th of January last, wherein I was directed by the President to collect all the evidence within my reach of the circumstances relating to the extraordinary outrage committed at Schlosser, the value of the property destroyed, the names of the persons killed and wounded, the fate of those who were carried off, and especially the names and official characters of the persons who were the perpetrators or the instigators of those acts of atrocity, I have now the honour to hand you, for the information of the President, all the evidence I have been able to procure in regard to that most extraordinary outrage. I should have put your department in possession of these papers at an earlier day, but, as I have before advised you, the letter containing the instructions came to this city during my absence, and I found it at Little Falls on my return from Albany, where I had been to attend a stated session of the district court. On my arrival in this city I commenced collecting information, and drawing up the affidavits which are inclosed, and have progressed therein with all the expedition in my power, having been somewhat delayed in consequence of various interruptions in the progress of taking the testimony.

It does not become me to say anything in regard to the bearing of the testimony, but I can assure the department, that the character and standing of most of the affirmants are highly respectable, and every individual whose affidavit was drawn out by me was rigidly examined, and the statements made by the affirmants were taken down and written out as nearly in the language used as could be done. The affidavits were then carefully read over, and every alteration or amendment which was



suggested was made, and then fair copies of the drafts were made and sworn to. Having been on the spot immediately after the transaction took place, and remained here a considerable time, and having made the efforts to get out the truth when the public mind here was quiet and composed, which I think could not fail to produce what I had in view, and that was to get at nothing but the truth, I am free to say that in my judgment it will be wholly out of the power of Her Britannic Majesty's officers in Upper Canada to change or alter any of the material facts stated in the affidavits. I have taken the liberty of appending to the papers the copy of a letter from Andrew Drew, Commander Royal Navy, to Hon. A. N. Mc Nab, Colonel commanding Her Majesty's forces, being the report of the former officer of the capture and destruction of the steam-boat "Caroline," which I took from the Niagara "Reporter" of the 11th of January, 1838, a newspaper printed in Upper Canada, and is no doubt an authentic paper. The British forces carried away two persons from the "Caroline," Sylvanus Flavus Wrigley a British subject, and Luke Walker a boy and an American citizen. Walker was sent over to the American side within two or three days after he was taken prisoner, and I saw him at Niagara Falls on the 1st day of January last, and understand he is now in the city of Buffalo. Luke Walker did not complain in my hearing of harsh or ill usage while he was detained in Canada, and I have not learned that he has done so to any other person. Wrigley, after having been confined in the guard-house some time at Chippewa, has been, as I am informed, discharged by the British authorities, and permitted to go at large. I have not been able to obtain the names of any of the persons on board the "Caroline" who were killed, or are supposed to have lost their lives in that affair, or who are missing, except Amos Durfee of Buffalo, and the little cabin-boy, who is in the affidavits called "Little Billy," whose real name was Johnson, both of whom it appears were shot after they had left the steam-boat, on the American shore, and within our territories.

W. L. Mc Kenzie and R. Van Rensselaer, with their followers, took possession of Navy Island on or about the 14th of December last past, and from that period to the 14th day of January last, at which time Navy Island was abandoned by the forces collected under the authority of what was called the Provisional Government of the State of Upper Canada; the wharf and dock on the American side of the Niagara River, and nearly opposite to Chippewa, was, I am informed, used as a landing-place, and many of the people who passed to and from Navy Island during the period above mentioned, departed from and landed at this place. From this point also a very considerable part of the stores, provisions, arms, and munitions of war were taken on to the island, until the Marshal of the District and Mr. Barker the collector, under and pursuant to my advice, interposed and prevented the embarkation of armed men and munitions of war at this place. The landing above mentioned is about half a mile up the river from the spot where Fort Schlosser once was, but there is hardly a vestige of the fort left, and there is nothing to indicate to the sight that there ever was a fort at the spot pointed out as the place where it was.

I have not, after the most diligent inquiries, been able to learn that arms of any description belonging to the United States were carried on to Navy Island; and I am well assured that the six-pounder taken to the island on the 29th day of December last was not the property of the United States.

I am constrained to say, and it is with deep regret and mortification, that while the armed forces occupied Navy Island, and previous to the "Caroline's" going to Schlosser, small parties of the Navy Islanders were upon the west side of Grand Island; that Mr. Van Rensselaer removed some of his sick on to the latter island at one time; and that it is probable discharges from small arms were made from Grand Island at the inhabitants or armed forces on the Canadian side of the river, although nothing very serious happened in consequence of it.

These discharges of musketry were made by persons belonging to, or attached to, Navy Island; and this point is some miles distant from the



landing place at Schlosser where the "Caroline" was destroyed, and higher up the river. A British subject by the name of George Nolop has, I understand, made an affidavit wherein he states, among other things, that he was taken and detained a prisoner at Schlosser, and that a cannon was taken from the fort, put on board the "Caroline," and taken to Navy Island. The affidavits of Henry Emmons and others refute and deny the statements of this man very positively and decidedly. I have annexed to the papers, herewith handed to you, a newspaper copy of a letter from J. Elmsley, Lieutenant of the Royal Navy, to Colonel McNab, and have done so because the outrage complained of in that letter is alleged to have been committed on the morning previous to the capture and destruction of the "Caroline," and from a point on the main American shore near where that tragic event took place. I have made the most diligent inquiries into this alleged outrage, and have not been able to ascertain that the statements made in that letter, in regard to the firing from the American shore, are founded in fact; but, on the contrary, I inform the department that it is highly improbable that any such transaction took place. I have taken measures to procure the affidavits of four persons at Rochester who were at Schlosser on the night of the 28th, and morning of the 29th, of December last, which I shall annex to the papers now prepared, if received before they are sent off, and if not, I shall forward that affidavit as soon as it is received.

Allan N. McNab, of Upper Canada, was the officer in command of Her Britannic Majesty's forces stationed at Chippewa, and ordered the expedition to cut out and destroy the "Caroline," as it is well understood and believed on this frontier. Andrew Drew, Commander Royal Navy, led the expedition, as appears by the official Reports of this transaction published in the Canadian papers. I have not been able to ascertain by proof, in the shape of an affidavit, the names and official standing of all the persons who were the perpetrators of the acts of atrocity in question, but I have official information from the State District Attorney of the County of Niagara, that an indictment for murder had at a late term of the County Courts of that county been found against Allan N. McNab, John Morier, Rolland McDonald, James Chalmers, Peter Rigley, Angus McLeod, Edgeworth Usher, Edward Zealand, John B. Warren, William Warren, Thomas McCormac, and J. and F. Jarvis, and that he, the district attorney, had forwarded to the department a copy of the testimony taken before the grand jury on that occasion.

After I had got through with taking the affidavits on the points indicated in your letter, it was intimated to me that the "Caroline" left Buffalo under a particular agreement between the owner and several citizens of this place, that in case of loss of the boat they would indemnify the owner.

I immediately instituted an inquiry into this matter, and find that about the time the "Caroline" left Buffalo a paper, in the following words, was circulated and signed by sixteen or seventeen citizens of this place:—"We, the Undersigned Agents, sign a bond of 1,000 dollars for the safe return of the steam-boat 'Caroline' from her present expedition." This paper was to be signed by twenty individuals, and the bond drawn and delivered to Mr. Wells, neither of which was done; and the boat left Buffalo and proceeded on her trip to Schlosser without the owner having any indemnity. I have not learned who the persons are who signed the paper, but am assured by Mr. Wells, the owner, that he never saw the paper previous to the destruction of the "Caroline," and that he has never had any consultation or conversation with the persons on Navy Island in regard to manning the boat, or fitting her out. This whole frontier is now quiet, and the Marshal and myself now propose leaving this place in a short time to return home. At present we cannot do anything here in the way of making arrests; and as soon after my return home as I can do it, I propose to forward to the department a detailed report upon the subject connected with the events which have recently transpired on this frontier. I cannot refrain from saying, that the prudent and energetic course pursued by Major-General Scott, after his arrival on this frontier,

completely frustrated all the plans of the people assembled on Navy Island, and prevented their second embarkation from our territory to invade Canada, and has restored this frontier to quiet and composure.

I am, &c.,  
(Signed) N. S. BENTON,  
United States' Attorney.

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Sub-Inclosure 1 in Inclosure 7 in No. 1.

*Deposition of Gilman Appleby.*

United States of America, State of New York, Erie County Sessions.

*Gilman Appleby*, of the City of Buffalo in the County and State aforesaid, being duly sworn, deposeth and saith, that he is an American citizen; and that on the morning of the 29th day of December last past he left the port of Buffalo in the steam-boat "Caroline," owned by William Wells of Buffalo aforesaid, and bound for Schlosser, upon the east side of the Niagara River, and within the United States of America. That he, this deponent, commanded the said steam-boat "Caroline," and that she was cleared from Buffalo with the intention of running between said Buffalo and Schlosser to carry passengers and freight. That this deponent caused the said "Caroline" to come to at the wharf at Black Rock Dam on her way down; and that while there this deponent caused the American flag, which was the flag called the American Ensign, to be run up; and that soon after leaving Black Rock harbour several muskets were discharged at the said "Caroline" from the Canadian shore, but without any injury; that the said "Caroline" continued her course down the Niagara River unmolested, and came to outside of certain scows or boats attached to Navy Island, when a number of the passengers disembarked; and, as this deponent supposes, certain articles of freight were landed; that from the place last aforesaid the said "Caroline" was run to Schlosser, and arrived there at about three o'clock in the afternoon; that between this time and dark the said steam-boat made two trips from Schlosser to Navy Island, coming to at the place above-mentioned; and that on the return of the said steam-boat to Schlosser on the last trip made that day, she was made fast at the dock at the latter place at about six o'clock in the evening with a chain cable. That the officers and crew of the said "Caroline" were ten in number; and that in the course of the evening twenty-three individuals, all of whom this deponent then and now supposed were citizens of the United States, came on board of said boat, and requested this deponent and the other officers of the boat to permit them to remain on board during the night, as they were unable to procure lodgings at the tavern near by. These requests were acceded to, and the persons thus coming on board the said boat retired to rest, as did also the officers and crew of the said "Caroline," except such as were stationed to watch during the night; that about midnight this deponent was informed by one of the men stationed to watch, that several boats filled with armed men were making towards the "Caroline" from the river; and this deponent immediately gave the alarm; and before he was able to reach the deck the "Caroline" was boarded by some seventy or eighty men, all of whom were armed; that they immediately commenced an attack with pistols, swords, and cutlasses upon the unarmed crew and inmates of the "Caroline," under a fierce cry of "God damn them; give no quarters; kill every man; fire! fire!" That the "Caroline" was abandoned without any resistance; and the only effort made by either the crew or inmates seemed to be to escape slaughter; that this deponent narrowly escaped, having received several wounds, none of which, however, were of a serious character; that immediately after the "Caroline" fell into the hands of the armed force which boarded her, she was set on fire, and cast loose from the dock, and towed into the current of the river, and then abandoned, and soon after she went over Niagara Falls.

That this deponent has made diligent search for the individuals, thirty-three in number, who were known to have been upon the "Caroline" at the time she was boarded, and twenty-two only have been found alive; that one of the men on board of said boat, Amos Durfee of Buffalo, was found dead upon the deck, he having received a musket or pistol shot in the back part of his head, and it came out at the forehead; James H. King and Captain Charles F. Harding were seriously though not mortally wounded; and several others received slight wounds. The ten individuals, besides the said Amos Durfee, who are still missing, this deponent has no doubt were either murdered upon the said boat, or found a watery grave in the cataract of the Niagara Falls. And this deponent further says, that immediately after the said "Caroline" was towed into the current of the stream and abandoned, as before mentioned, beacon lights were discovered upon the Canada shore near Chippewa; and after sufficient time had elapsed to enable the boats to reach that shore, this deponent distinctly heard loud and vociferous cheering at that point. That this deponent has no doubt that the individuals who boarded the "Caroline" and committed the said outrage, were a part of the British forces stationed at Chippewa, Upper Canada. And this deponent further saith, that since the capture and destruction of the said steam-boat "Caroline" he, this deponent, hath heard inquiries made for Michael O'Reily, a boy, and a Mr. Wetman, of the city of Rochester, as being missing, and another person, name not now recollected, from Williams-ville. That deponent had a boy with him on board said boat who was usually called "Little Billy," and who had formerly been with deponent on the lake in "Constitution" steam-boat; and that this boy was shot in the store-house door, and fell into the river; and deponent has not been able to hear of him since that time. That he, this deponent, recognized one of the persons who made the attack on said boat at the time above stated, and is positive that he was Angus McLeod, of Upper Canada, a subject of Her Britannic Majesty. And this deponent further saith, that when the said steam-boat "Caroline" left Buffalo she had not, to the knowledge and belief of this deponent, any arms or munitions of war on board of her: and that he, this deponent, did not see any arms or munitions of war of any kind taken on to Navy Island in said steam-boat "Caroline," except one iron six-pound field-piece well mounted; and he does not believe any others were carried in her. And this deponent also saith, that the officers, and crew, and people on board the said "Caroline," on the night of her capture and destruction, were wholly unarmed, and had no weapons of any kind, offensive or defensive; and no defence of said "Caroline" was made or attempted when attacked by the persons who boarded her; and that before the people on board of said "Caroline" turned in to sleep a count was made, and thirty-three persons were ascertained to be on the said boat; and deponent also saith, that he believes that a few persons with arms went in said boat on the day aforesaid, either to Grand or Navy Island; but he does not know whether they intended to join the forces at Navy Island, or were going on to Grand Island, but he thinks now that the armed persons were American citizens destined to Grand Island; and further this deponent saith not.

(Signed) GILMAN APPLEBY.

Sworn this 2nd day of February, 1838,  
before me,

(Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

Sub-Inclosure 2 in Inclosure 7 in No. 1.

*Deposition of Messrs. William Seaman and William Kennedy.*

United States of America, State of New York, Erie County Sessions.

*William Seaman, junior, and William Kennedy, of the city of Buffalo, in the said state and county, being duly sworn, each for himself depose and saith, that he is an American citizen, and these deponents,*

each for himself saith, that he hath heard the affidavit of Gilman Appleby hereto annexed, read, and know the contents thereof, and that each of said deponents were on board said steam-boat "Caroline" at the time of her capture and destruction, as stated in said Appleby's affidavit, and that the statements made in the said affidavit of the capture and destruction of the said "Caroline," by British forces, are true, to the knowledge of these deponents; and the said William Kennedy, for himself saith, that he was one of the men on watch in said "Caroline," and was at the time on the forward part of the said boat, but did not hail said boats, but a man standing near deponent who did not belong to said "Caroline" did hail said boats, saying "Who comes there," twice; and the second time of hailing, the answer from some the armed boats was "friends," in a low tone of voice; at this time deponent was standing on a box, and as he jumped down he partly fell, and as he jumped down a shot was fired from one of said armed boats. Deponent gave the alarm to the inmates of the "Caroline," saying, "There are four or five boats," come on deck; and deponent went off to see who the men were, not expecting at the moment a hostile or murderous attack, but before this deponent had reached the after gangway, the "Caroline" was boarded, and an attack was made on the persons on board said "Caroline" by the discharge of pistols and the use of swords. That deponent finally succeeded after considerable difficulty in getting on shore from said "Caroline" at the forward gangway, and in passing towards the after part of said "Caroline" along the dock, deponent saw a man jump from the said "Caroline" at the after gangway, and near to where deponent stood, and as this man jumped on the dock, deponent heard the report of a musket or pistol, and the man fell face downwards and sprung up immediately, and taking three or four steps jumped into the river, and deponent heard the splash made by the fall into the water, and saw the said man in the river. Deponent does not know the name of this man, the man appeared to be slim, dressed in dark coloured clothes, and after the "Caroline" was taken from the dock or wharf, deponent took a lantern and went down to the dock to look for the man, but did not find him or any other person about the dock; and deponent that night conversed with all the persons he saw who were in the "Caroline," and that they all denied having seen him in the water at that place, and that the other man on watch with deponent when the "Caroline" was boarded was not killed; his name is Steward, and deponent has seen him in Buffalo several times since, and within a few days; and deponent also saith, that the man who hailed said armed boats, who has usually been called "Dutch Peter," and is the only name he knows him by, was not killed or wounded; and further these deponents say not.

(Signed) WILLIAM SEAMAN, junior.  
WILLIAM KENNEDY.

Sworn this 2d day of February, 1838, before  
me, by William Seaman, junior.

(Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

Sworn before me this 3rd day of February, 1838,  
by William Kennedy.

(Signed) JAMES STRYKER,  
*First Judge of Erie County.*

Sub-Inclosure 3 in Inclosure 7 in No. 1.

*Deposition of William Wells.*

United States of America, State of New York, Erie County Sessions.

*William Wells*, of the city of Buffalo, in the said county and state, being duly sworn, deposeth and saith, that he is an American citizen, and that on the 29th day of December last past, he was the true and only legal owner of the steam-boat "Caroline," and at the time of the destruc-

tion of the said "Caroline" he was such owner, and for some time previously had been, although there had been an understanding between deponent and one Hamlet Scrantoun, that when he the said Scrantoun should pay to this deponent the one-half of the purchase money and amount expended, he was to be equally interested with deponent in said boat; and that when deponent fitted up said boat, he intended to run her from Black Rock Dam to Schlosser, once a day, and also intended to run her to Navy Island, and touch at Grand Island and Tonawanda, should he find it necessary and profitable to do so. That this project was set on foot with a view of making money, as he supposed he had a legal right to do it, running the risk of seizure by the British Authorities in Upper Canada, and not evading or transgressing the laws of the United States. And this deponent further saith, without any reservation whatever, that no person on Navy Island, or elsewhere, connected with the persons or people on that Island, or any other person whatever, had any control over the said steam-boat, and that he, this deponent, was not in any manner whatever under any control or obligation to use or run on any particular business, or to do any particular service. That when said boat left the port of Buffalo, she proceeded to Schlosser, touching at Black Rock, Tonawanda, and Navy Island, at which latter place, several passengers and some freight were landed; and this deponent now believes but one of the passengers had any arms, and he had a rifle, which rifle was used on the passage down in shooting ducks. That said steam-boat made two trips from Schlosser to Navy Island, on the said 29th day of December last past, conveying passengers and freight, many of the passengers were citizens of Buffalo, with whom this deponent was well acquainted, and that at no time were any arms and munitions of war carried to Navy Island in said steam-boat, except one mounted field-piece, which deponent supposed belonged to a person who was a passenger in the said steam-boat from Schlosser to the Island. That when said steam-boat returned to Schlosser about six o'clock in the evening, deponent intended to have had the boat come up to Black Rock Dam, but in consequence of some derangement in the machinery connected with the engine, Captain Appleby directed the steam to be blown off, in order to repair the machinery. That the officers and crew of the said boat were unarmed, and there were no arms in the boat at the time she lay for the night at Schlosser. That he hath heard the affidavit of Gilman Appleby, giving a description of the capture and destruction of the said steam-boat read, and the facts therein stated are true of this deponent's knowledge, except that this deponent has not any knowledge of the shooting of the boy called "Little Billy;" and he has not any particular knowledge of any of the personal acts of the said Appleby, as deponent was unable to get on deck until most of the persons in the boat who landed on making their escape had effected it. And this deponent further saith, that when he got on shore from the said steam-boat, he passed a man lying on the dock ten or twelve feet from the said boat, and about seven feet from the lower end of the dock, apparently dead, as he did not move or stir, and Amos Durfee was found dead at a different place and in a different position. And deponent further saith, that he cannot give any information as to the persons who were killed and missing from the said boat on the night above-mentioned, except as above stated, as all the persons who came on board the said boat at Schlosser, to sleep, were strangers to the deponent, and collected from different parts of the county, and he has heard but few inquiries made after individuals. That James H. King was very badly wounded in the attack made on said boat by the British forces. Captain Charles F. Harding received a bad cut over his left eye; a coloured man, whose name deponent does not know, was stabbed in the hip, a pretty bad wound; Sylvanus Staring received a blow on the head, not a bad wound. And this deponent further saith, that he was informed and believes that Allan N. McNab, who is reputed to have been the commandant of the British forces at Chippewa, ordered the expedition to capture the "Caroline," but has no knowledge of the names of the individuals who composed the expedition, or conducted it. That deponent considers the said boat with her engine and boiler, was fully worth the sum of 4000

and 500 dollars, and the furniture and clothing in the boat which was destroyed, belonging to deponent was worth the sum of 100 dollars. That deponent has no doubt Captain Gilman Appleby furnished the boat with sea stores and provisions, and he saw portions of all the articles mentioned in the bill hereto annexed, made out by Otis Allen, on board of said steam-boat on the 29th day of December last past, and of the articles mentioned in the furniture and bedding taken from the steam-boat "Constitution;" this deponent saw most of them on board of the steam-boat "Caroline" on the day aforesaid, and has no doubt the provisions, furniture, and bedding were in the said "Caroline" when she was captured, as none of them were, to this deponent's knowledge, removed from said last-mentioned boat. And this deponent further saith, that the aid and assistance he received from Captain Gilman Appleby and Harrison Chase in fitting out said steam-boat and getting her in order and furnished to run, entirely from personal friendship of those gentlemen towards this deponent, as he, this deponent, believes. And this deponent further saith, that he recollects seeing a small boy on board said steam-boat, and has no doubt he is the same person spoken of by Captain Gilman Appleby in his affidavit, and he saw him assisting the cook in said "Caroline." And this deponent further saith, that he was in the lower cabin of said boat when she was boarded, and attempted to get out through the engine-room, and was prevented by the armed men who had possession of the passage leading out of the lower part of the boat on to the deck at that place; that deponent then went forward, alongside of the boiler, until he could see out of the forward hatchway, and one of the armed men jumped down into the fire-room in front of deponent, and some one cried out "Fire up," when this man immediately commenced hauling the fire into the forward part of the furnace; deponent then went back, and attempted to get out of the lower part of the boat through the engine-room, but was prevented as before; and deponent then went forward again, and being in the dark, the armed man before mentioned hauled out and took hold of Amos Durfee, and said, "Who in hell are you?" and Durfee replied, he belonged to the boat, and followed the man on deck, making no resistance whatever; and after Durfee and the said armed man had got on deck, he, deponent, heard a scuffling, but did not see said Durfee again until the next morning, lying dead upon the dock, about twenty feet from the edge of the dock or wharf next to the river, where said steam-boat lay; and that this deponent finally effected his escape from said "Caroline" with great difficulty and risk; and deponent believes that, when he left the boat, there were several persons who were American citizens in the lower part of the boat, who appeared to be endeavouring to secrete themselves from the party assailing the people on board said boat; and further deponent saith not.

(Signed) WILLIAM WELLS.

Sworn and subscribed this 1st day of  
February, A.D. 1838, before me,

(Signed) F. P. STEVENS,  
Judge of Erie County Courts.

Sub-Inclosure 4 in Inclosure 7 in No. 1.

*Deposition of Charles F. Harding.*

United States of America, State of New York, Erie County Sessions.

*Charles F. Harding*, of the city of Buffalo, and county and state aforesaid, being duly sworn, maketh oath and saith, he is an American citizen, and has for the year past been employed in navigating the upper lakes, a master of a brig, and is well acquainted with vessels, and in navigating the lakes and other waters, and their small boats; and that he was on board the steam-boat "Caroline" at the time of her capture and destruction, on the night of the 29th day of December last past, and that a small boat, called a jolly-boat, which belonged to the steam-boat "Constitution," was at Schlosser in the afternoon of the day aforesaid, and at night when the

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said steam-boat "Caroline" came to at the wharf at Schlosser, and said jolly-boat was made fast to the dock at Schlosser, or to said steam-boat "Caroline," and that said boat was not at the dock or at Schlosser the day after the "Caroline" was destroyed; and that the said jolly-boat, exclusive of the oars and rigging, was worth the sum of 120 dollars in the opinion of this deponent; and this deponent further saith, that he hath heard the affidavit of Gilman Appleby, hereto annexed, read, and knows the contents thereof, and was on board of the said steam-boat "Caroline" from the time she left the harbour of Buffalo Creek, until she was captured and destroyed on the night of the 29th day of December last past, and that all the matters of fact stated by the said Gilman Appleby in the said affidavit annexed, occurred as stated therein to the knowledge of this deponent, and they are true, except that this deponent did not see the boy called "Little Billy" shot, as stated in said Appleby's affidavit. And deponent further saith, he saw said boy on board said boat at the time above mentioned, and has not seen or heard of the said boy since the destruction of the "Caroline." That he, this deponent, was attacked while on board the "Caroline" by a man armed with a cutlass and pair of pistols, and deponent defended himself against him as well as he could with a short billet of wood, and afterwards the same man returned after retreating towards the stern of the boat, and struck deponent a blow on the head with a cutlass, which wounded defendant pretty severely. And deponent further saith, that he saw a man laying dead upon the deck in the forward part of the boat, who this deponent supposes was shot or received his death-blow in the after part of the said steam-boat, as she was boarded from the boats on the quarter and after gangway. That there was a person on board of the "Caroline," on the night aforesaid, who, this deponent is informed, was taken and carried into Carada, and detained for a while in the guard-house at Chippewa, and who this deponent thinks was a spy, and was sent over to come on board the "Caroline," and pretending to seek a night's lodging in the boat; and further saith not.

(Signed) C. F. HARDING.

Sworn this 1st day of February,  
1838, before me.

(Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

Sub-Inclosure 5 in Inclosure 7 in No. 1.

*Deposition of James H. King.*

United States of America, State of New York, Erie County Sessions.

*James H. King*, of the city of Buffalo, and State and County aforesaid, being duly sworn, deposeth and saith, he is an American citizen, and was on board the steam-boat "Caroline" on the 29th day of December last past, and at the time of her destruction as mate, or second in command under Captain Gilman Appleby. That deponent was employed by William Wells, the owner of said boat, who expressed his intention at the time of running the boat between Black Rock Dam and Schlosser, to carry freight and passengers, and said he thought the business would be such as would enable him to pay deponent forty dollars per month. That he, this deponent, follows the business of navigation in the season of it, on the lakes and rivers. That he, this deponent, further saith, he has heard the affidavit of Gilman Appleby read, and concurs in the statement of facts therein made so far as regards what took place on board of the "Caroline" during the day of the 29th day of December aforesaid, and the capture and destruction of the said boat on the night of said day; but deponent did not see the said Appleby during the affray, and does not know what took place in the part of said boat where said Appleby was, and did not see the boy called "Little Billy," shot. That deponent that night went to bed in the deck cabin, where there were five persons besides this deponent, and at the time the attack was made



by the British armed forces, the five persons who were in said cabin, deponent believes escaped to the shore unharmed. That when the first alarm was given, deponent supposes he did not fully awake out of his sleep, and when deponent finally awoke, he pulled on his boots and put on his hat and started for the shore; and when deponent got out of the cabin on to the deck, he was met by six or eight men armed with pistols and swords, who shoved deponent into the cabin against the back part of it, where they compelled this deponent to lay down in the cabin, and after striking deponent several blows with swords or cutlasses, and wounding deponent very severely, they asked deponent, calling him a damned Yankee curse, who and how many persons were aboard of the boat, and what they were about there, and deponent could not get any opportunity of giving an answer to the questions which were asked; that while this deponent lay wounded and bleeding in said cabin on the mattresses spread out there, one of these armed men called out to deponent, saying, "Roll over, you damned Yankee son of a bitch, roll over, and give us these mattresses, they will do for me to sleep on;" and that five or six of the mattresses were handed out of the cabin window, which had been broken in, and all the bedding in that cabin was also taken out. That a short time before the boat left the wharf or dock, and after, as deponent supposes, most if not all the surviving American citizens had left the boat, a man came into the cabin where deponent was, who deponent believes was one of the officers, and another of the boarders said, "Is it best to take this fellow a prisoner"; others said "No, let us kill him," but the officer said, "We don't want prisoners, we had better let him go on shore;" deponent then got up and followed the officer out of the cabin door, and then he stopped, when deponent spoke to him; said, he, deponent, could not get off unless he passed deponent off the boat, and this officer sent a man to pass deponent off the boat; as deponent left the boat some one said, "There is a good mark to fire at," and immediately a pistol was discharged; but deponent was not hit; that the officer above mentioned kept his back towards deponent, and he could not recognize said officer. After leaving the boat, deponent attempted to make his way up to the tavern, about twenty rods from the dock, but he was so faint and weak from loss of blood, that he could not get there without being assisted; that deponent received a severe sabre cut across the left shoulder blade and joint, about four inches long, cut into the bone; another severe sabre cut in the fleshy part of the left arm below the elbow; and deponent received a blow on the head, which did not, however, do any harm, other than cut through the hat; deponent was also kicked and stamped upon by the men who came into said boat and captured her; that the boat was set on fire in the cabin where deponent was before he was permitted to leave the boat; that the people who boarded and destroyed said boat came from the Canada shore and returned there, as deponent believes, in boats. And deponent also saith, that he has been unable to do any business since he was wounded, in consequence of those wounds, and does not expect to be able to do any business for some time to come in consequence thereof; and he is apprehensive his left arm may be always lame and not so strong as usual; that he has been put to a very considerable expense in being cured of the wounds he received in said steam-boat at the time aforesaid; that deponent has now been disabled of his wounds upwards of four weeks, and that the expenses attending deponent's sickness and lameness, including doctor's bill, will amount to the sum of 118 dollars up to this time, exclusive of deponent's loss of time, and that deponent when employed in his profession has usually received the sum of 35 dollars per month; that he, this deponent, recollects seeing the little cabin boy spoken of by Giiman Appleby in his affidavit, on board of the steam-boat "Caroline," when the said boat went down the river on the said 29th day of December last past, and has not heard of or seen him since; and this deponent also saith, that he has no knowledge or information that the said steam-boat "Caroline" was under the pay of the people on Navy Island, or any person connected with them; and he does not believe that any person had any control of the boat except the owner, William

Wells, except in the sailing and managing the boat she would be under the command of the captain or officer who might be put in charge for that purpose; and further this deponent saith not.

(Signed) JAMES H. KING.

Sworn and subscribed this 1st day of  
February, A.D. 1838, before me,

(Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

Sub-Inclosure 6 in Inclosure 7 in No. 1.

*Deposition of John C. Haggerty.*

United States of America, State of New York, Erie County Sessions.

*John C. Haggerty*, of the city of Buffalo, state and county aforesaid, being duly sworn, maketh oath and saith, that he is an American citizen, and was in the steam-boat "Caroline" on the 29th day of December last past, having gone on board said boat at Black Rock Dam, and was also on board of said steam-boat on the night of the said 29th day of December last past; and he hath heard the affidavit of Gilman Appleby read, and knows the contents thereof; and that the said affidavit is true to the knowledge of this deponent, wherein the same describes the capture and destruction of the said boat by the British forces from Upper Canada, and also in other respects, except that deponent did not see the said Appleby on board the said steam-boat during the affray, and deponent did not see the boy, called "Little Billy," shot. And deponent further saith, that he turned in to sleep that night in the upper cabin, and when the alarm was first given, that boat-loads of armed men were coming towards the "Caroline," deponent got up and went out on deck, in the after part of the boat, and proceeded to the starboard side of the said boat, and then he saw five boats approaching, one of which he saw was filled with armed men, and the others he has no doubt were also filled with armed men, but they were so far off that he, this deponent, could not tell with certainty whether the said four boats had armed men in them or not; that the boat which was nearest, and armed, soon came alongside of the steam-boat, at the after gangway, on the starboard side, and deponent stepped up to the railing on that side of the boat, and some men who were in the "Caroline" followed deponent; and while deponent was standing at the side of the boat as aforesaid, three discharges of pistols were made from the approaching boat, and a man, whose name deponent cannot tell, as he was a stranger to this deponent, was shot dead, and he fell on the deck; and deponent stepped over him to go to the gangway on larboard side of the boat, and not being able to get away from the boat at that place, he returned, and passed this same dead man, in going to the forward part of the boat to get ashore.

And this deponent further saith, that he went into said steam-boat to go down the river, as a matter of curiosity, having no connexion with any of the hostile parties at Navy Island, or on the main Canada shore, and paid his own expenses; that he saw the jolly-boat which belonged to the steam-boat "Constitution" made fast to the dock at Schlosser, and after the attack was made, this boat was adrift from the wharf, about twenty feet astern of the steam-boat, with two men in her, and she afterwards came back to the dock, and the men got out of her; and deponent a little while afterwards saw the said jolly-boat drift ashore on to the American side, between twenty and thirty rods below the dock at Schlosser; and while the said jolly-boat lay at the place above stated, deponent saw two of the British boats approach the said jolly-boat, and two men from the said boats got into her, and this was the last he saw of the said jolly-boat; and further this deponent saith not.

(Signed) JOHN C. HAGGERTY.

Sworn this 2nd day of February,  
1838, before me, (Signed)

F. P. STEVENS,  
*Judge of Erie County Courts.*

## Sub-Inclosure 7 in Inclosure 7 in No. 1.

John C. Haggerty  
Dec 29

## Deposition of John C. Haggerty.

*John C. Haggerty*, of Buffalo, had destroyed in the steam-boat "Caroline," December 29, 1837,—

	Dol.	Cts.
One round-about sailor coat, destroyed on board the steam-boat "Caroline," at Schlosser	- 10	00
One pair of Wellington calf-skin boots, at same time, on board the "Caroline"	- 6	00
Two pocket handkerchiefs, destroyed at same time, on board the "Caroline"	- 2	00
	<u>18</u>	<u>00</u>

United States of America, State of New York, Erie County Sessions.

*John C. Haggerty*, of Buffalo, in said State and County, being duly sworn, deposeseth and saith, that at the time of the capture and destruction of the steam-boat "Caroline," this deponent had on board said boat the above articles of property, and the same were then and there destroyed and entirely lost to this deponent, and that this deponent hath not recovered or seen the said property since; and that said articles of property were severally fully and justly worth the sums above carried out opposite said articles, and amount in the whole to eighteen dollars; and further this deponent saith not.

(Signed) JOHN C. HAGGERTY.

Sworn this 2nd day of February,  
1833, before me,

(Signed) F. P. STEVENS,  
Judge of Erie County Courts.

## Sub-Inclosure 8 in Inclosure 7 in No. 1.

## Deposition of G. J. Storer.

Steam-boat "Caroline," December 28, 1837.

Captain Appleby,  
To Otis Allen, Dr.

	s.	d.	Dol.	Cts.
50lbs. B. Sugar	- 1	0	- 6	25
20lbs. Ground Coffee	- 2	0	- 5	00
10lbs. G. H. Tea	- 6	0	- 7	50
14lbs. L. Sugar	- 1	6	- 2	63
1lb. Pepper	- 2	0	- 25	
2 box Salt	- 1	3	- 31	
150lbs. Pork	- 1	0	- 18	00
150lbs. Corn Beef	- 0	6	- 9	00
30lbs. Butter	- 1	8	- 6	00
2 Pails	- 6	0	- 1	50
10lbs. Candles, Tallow	- 1	8	- 2	00
6lbs. Sperm Candles	- 3	6	- 2	63
8 bushels Potatoes	- 3	0	b 3	50
5 gall. Oil	- 12	0	- 7	50
1 Demijohn	- 12	0	- 1	50
			<u>73</u>	<u>57</u>
	Dollars			
	M			

	s.	d.	Del.	Cts.
Brought over	-	-	-	73
30½lbs. Cheese	-	1	0	57
¼ bushel Crackers	dollars	3	25	81
25lbs. Mackerel	-	8	0	25
30lbs. Cod Fish	-	0	6	00
				88
				84
				51

Received payment of the above January 14, 1838.  
(Signed)

OTIS ALLEN.  
By G. J. STORER.

United States of America, State of New York, Erie County Sessions.

*George J. Storer*, of the city of Buffalo, County and State aforesaid, being duly sworn, maketh oath and saith, that he is an American citizen, and was, in the month of December last past, and now is, a clerk in the store of Otis Allen, of Buffalo; that he, this deponent, made out the bill, which is herunto annexed, of sea stores sold and delivered to Captain Gilman Appleby; and that deponent delivered about half the goods mentioned in said bill by the direction of Harrison Chase, on said Appleby's account; and that one William Tingley delivered the remainder, who was also a clerk in said Allen's store at the time; and that said goods are charged in said bill at the usual and ordinary price of selling goods at the said store to other people; and further this deponent saith not.

(Signed) G. J. STORER.

Sworn this 2nd day of February,  
1838, before me, (Signed)

F. P. STEVENS,  
Judge of Erie County Courts.

Sub-Inclosure 9 in Inclosure 7 in No. 1.

*Deposition of William J. Bush.*

United States of America, State of New York, Erie County Sessions.

*William J. Bush*, of the town of Tonawanda, in the County and State aforesaid, being duly sworn, maketh oath and saith, that he is an American citizen, and that on the 3rd day of January last past, he, this deponent, was riding on horseback on the western side of Grand Island, and within the territory and jurisdiction of the United States; he, this deponent, was fired at by a large party of armed men on the Canada main shore of the Niagara River, but was not hit; and deponent supposing it would be prudent for him to get entirely out of the reach of any shot from that shore, turned his horse to go back from the shore, when the men on the Canada side set up a loud shout. That deponent was wholly unarmed, and the place where deponent was fired at was about four miles above Navy Island, and a little more than that distance from the lower part of Grand Island; and further this deponent saith not.

(Signed) W. J. BUSH.

Sworn and subscribed this 3rd day of  
February, 1838, before me, (Signed)

F. P. STEVENS,  
Judge of Erie County Courts.

Sub-Inclosure 10 in Inclosure 7 in No. 1.

*Deposition of Harrison Chase.**Buffalo, January 19, 1838.*

INVENTORY of Goods burnt and destroyed on board of the steam-boat "Caroline":—

	Dol.	Cts.	Dol.	Cts.
To 8 hair mattresses - - -	10	50	84	00
3 straw ditto - - -	4	00	12	00
2 dozen blankets - - -	2	00	48	00
1 dozen towels - - -	3s.		3	50
8 hair pillows - - -	2	00	16	00
12 dining plates (china) - -	4	50 doz.	4	50
6 small ditto ditto - - -	1s	6d.	1	13
2 large meat platters, ditto -	3	00	6	00
1 dozen knives and forks, ivory handles - - -	6	00	6	00
1 carver and fork, ditto - -	3	00	3	00
1 large coffee-pot - - -	8s.		1	00
3 globe lanterns - - -	18s.		6	75
1 dozen teas (china) - - -	4	50	4	50
2 large pitchers - - -	10s.		2	50
1 boat, oars, rigging, &c. - -	—		182	00
	Dollars		380	88
	Deduct last item		182	00
	Dollars		198	88

United States of America, State of New York, Erie County Sessions.

*Harrison Chase*, of the City of Buffalo, in the State and County aforesaid, being duly sworn, deposes and saith, that he is an American citizen, and was last summer and fall, during the season of navigation, employed on board of the steam-boat "Constitution," which navigated Lake Erie, as a steward; that on the 28th day of December last past, he, this deponent, by the directions of Captain Gilman Appleby, who had charge of the said steam-boat "Constitution," took all the above-mentioned articles of property, except the small boat, oars, and rigging, from the said steam-boat "Constitution," and put the same on board of the steam-boat "Caroline;" both of said boats then laying in the harbour of Buffalo Creek; and that all the said articles of property were justly and fairly worth the several sums carried out and set opposite thereto, and amounting, exclusive of the said small boat, to the sum of 198 dollars and 88 cents, which this deponent believes to be the just and fair value of the same; and this deponent further saith, that by the directions of the said Captain Gilman Appleby, he, this deponent, ordered a quantity of provisions and ship-stores to be sent on board the steam-boat "Caroline," from the grocery-store of Otis Allen; and that he, this deponent, saw the principal part of the goods mentioned in the bill of Otis Allen which is hereto annexed, delivered on board of the said steam-boat "Caroline," on the 28th day of December last past; and further saith not.

(Signed) H. CHASE.

Sworn and subscribed before me, this 6th day of

February, 1838.

(Signed)

FREDERIC P. STEVENS,

*Judge of Erie County Courts.*

## Sub-Inclosure 11 in Inclosure 7 in No. 1.

*A Statement of Claims for Losses sustained in consequence of the Capture and Destruction of the Steam-boat "Caroline," at Schlosser, on the 29th day of December, 1837, by a British Armed Force, from Chippewa, Upper Canada.*

	Dol.	Cts.
William Wells, of Buffalo, for the value of the said steam-boat, engine, and boiler	4,500	00
The same, per boat furniture, clothing, oil jugs, as per affidavit	100	00
Gilman Appleby, of Buffalo, as agent for the owners of the steam-boat "Constitution," for boat-furniture, as per bill annexed	198	88
The same, as agent as above, for small boat, called jolly-boat, oars and rigging, &c.	120	00
Gilman Appleby, in his own right, for sea-stores in the "Caroline," captured and destroyed as per bill annexed and proofs	84	51
John Johnson, of Buffalo, for clothing captured and destroyed on board of the "Caroline"	16	50
William Hinton, of Buffalo, for clothing captured and destroyed in the "Caroline"	15	75
James Wilson, of Buffalo, for clothing and trunk captured and destroyed in the "Caroline"	48	62½
John C. Haggerty, of Buffalo, for clothing captured and destroyed in the "Caroline"	18	00
James H. King, of Buffalo, for nursing and other expenses attending his recovery from his wounds	118	00
Same, for one and half month's time wholly lost in consequence of his wounds	52	50
	<hr/>	
Dollars	5,272	76½

## Sub-Inclosure 12 in Inclosure 7 in No. 1.

*Affidavit of Cyrus K. Anderson.*

State of New York, Erie County Clerks' Office, Sessions.

I, *Cyrus K. Anderson*, clerk of said county, certify that Frederick P. Stevens, James Stryker, and Isaac Humphrey, Esqs., before whom the annexed affidavits were taken, were each of them at the time of taking the same, judges of the Erie County Courts. And that Dyre Tillinghast, before whom the annexed affidavit was taken, was at the time of taking the same a Supreme Court Commissioner, and also, that Milton McNeil Esq., before whom the annexed affidavit was taken, was at the time of taking the same a Commissioner of Deeds, all appointed, and sworn, and duly authorized to take the same. And further, that I am well acquainted with their handwriting, and verily believe that the signatures to the affidavits aforesaid are genuine.

(L.S.) In testimony whereof I have hereunto set my hand and affixed the seal of said County, the 7th day of February, A.D., 1838.

(Signed) C. K. ANDERSON,  
Clerk.

By (Signed) R. W. PADELFOED,  
Deputy Clerk.

## Inclosure 8 in No. 1.

*Captain Drew to Colonel Mc Nab.**Head-Quarters, Chippewa,  
December 30, 1837.*

Sir,

I HAVE the honour to inform you that in obedience to your commands to burn, sink, or destroy, the piratical steam-vessel which had been plying between Navy Island and the American shore, the whole of yesterday I ordered a look out to be kept upon her, and at about 5 P.M., of yesterday, when the day was closed in, Mr. Harris, of the Royal Navy, reported the vessel to me as having moved off Navy Island. I immediately directed five boats to be armed and manned with forty-five volunteers, and about eleven o'clock, P.M., we pushed off from the shore for Navy Island, when not finding her there as expected, we went in search and found her moored between an island and the main shore. I then assembled the boats off the point of the island, and dropped quietly down upon the steamer; we were not discovered until within twenty yards of her, when the sentry upon the gangway hailed us and asked for the countersign, which I told him we would give him when we got on board; he then fired upon us, when we immediately boarded, and found from twenty to thirty men upon her deck, who were easily overcome, and in ten minutes she was in our possession. As the current was running strong, and our position close to the Falls of Niagara, I deemed it most prudent to burn the vessel; but previously to setting her on fire we took the precaution to loose her from her moorings, and turn her out into the stream to prevent the possibility of the destruction of anything like American property. In short, all those on board the steamer who did not resist were quietly put on shore, as I thought it possible there might be some American citizens on board. Those who assailed us were of course dealt with according to the usages of war. I cannot speak too highly of the conduct of the officers and men who accompanied me; their coolness and bravery shows what may be expected from them when their country requires their services; where all behaved so well, it would be invidious in me to particularize any one, but I may be excused for mentioning the gallant conduct of Lieutenant Shepard Mc Cormack of the Royal Navy, who nobly seconded me and had to encounter several of the pirates in the fore-part of the vessel, by which, I regret to say, he has received five desperate wounds. We have also two other wounded, and I regret to add, that five or six of the enemy were killed.

A return of our wounded I beg to subjoin.

I have, &c.,  
(Signed) ANDREW DREW,  
*Commander, Royal Navy.*

P.S.—I beg to add that we brought one prisoner away, a British subject, in consequence of his acknowledging that he had belonged to Duncombe's army, and was on board the steamer to join Mc Kenzie upon Navy Island.

(Signed) ANDREW DREW.

*Return of the Wounded.*

Lieutenant Shepard Mc Cormack, Royal Navy, desperately.  
Captain Warren, " " slightly.  
John Arnold, " " severely.  
(Signed) ANDREW DREW.



## Inclosure 9 in No. 1.

*Lieutenant Elmsley to Colonel Mc Nab.*

Sir,

*Chippewa, December 29, 1837, 8 A.M.*

I HAVE the honour to inform you that I have just returned from the neighbourhood of Navy Island, to which point I proceeded at daybreak with my spy-glass to inspect the position of the rebel forces.

Soon after my arrival there I perceived our eight-oared gig just rounding the northern extremity of Navy Island. She had been round the island, and was fired at from all parts of it with round shot, grape, and canister, and musketry.

On our coming abreast of Fort Schlosser I distinctly saw two discharges of heavy ordnance from a point on the main shore of the American side, not far from the fort. As soon as our boat had passed, the firing ceased.

I have deemed it no more than my duty to call your attention to this fact, to the truth of which I am prepared to make affidavit whenever called upon.

I have, &c.,  
 (Signed) J. ELMSLEY,  
*Lieutenant, Royal Navy.*

## Inclosure 10 in No. 1.

*Deposition of Aaron L. Porter and Asahel Barber.*

United States of America, State of New York, Erie County Sessions.

*Aaron L. Porter*, of the city of Buffalo, and County and State aforesaid, and *Asahel Barber*, of the town of Buffalo, also in the County and State aforesaid, being duly sworn, each for themselves, depose and say, that they severally took passage in the steam-boat "Caroline" from Schlosser, the last trip she made to Navy Island, on the afternoon of the 29th day of December last past, with the intention of going on to Grand Island, and they did go on to Grand Island that same afternoon or evening; and that they, both of these deponents, remained in Grand Island during the night of the said 29th day of December last past; and that they each of them are American citizens; and that the said Barber had a sword with him, and the said Porter had no arms whatever; and that the reason why these deponents went to Grand Island was, that a report had been in circulation that the Canadian Indians had come on to Grand Island, and deponents were sent over by Messrs. Dorsheimer and Green, United States' Deputy Marshall, to have the truth of the said report; and that they, these deponents, did not observe any of the passengers in said boat had any small arms with them, except the said Barber, in the passage and trip aforesaid; and further these deponents say not.

(Signed) ASAHEL BARBER.  
 AARON L. PORTER.

Sworn this 31st day of January, 1838,  
 before me.

(Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

## Inclosure 11 in No. 1.

*Deposition of Edward Norton.*

United States of America, State of New York, Erie County Sessions.

*Edward Norton*, of the city of Buffalo, in said State and County, and a counsellor at law, being duly sworn, maketh oath and saith, that he is an American citizen, and well acquainted with Mr. William Wells, also of the said City and State, and, as deponent is informed and believes, was the reported owner of the steam-boat "Caroline" at the time of her capture and destruction; that he, this deponent, saw the said Wells on a passage from Navy Island to Schlosser in the said steam-boat the afternoon of the 29th day of December last past, and had a conversation with the said Wells in reference to the employment of the said boat, and the compensation he was to receive; and the said Wells said he expected to charge freight for the services of the boat while used in passing to and from Navy Island; and remarked further, that he would lay up the steam-boat that night at the Black Rock Dam; and deponent further saith, that he saw a flag hoisted on said steam-boat, which was a United States' flag, and that he did not see any other flag on board said steam-boat; and further this deponent saith not.

(Signed) EDWARD NORTON.

Sworn before me this 1st day of

February, A.D. 1838.

(Signed)

F. P. STEVENS,

Judge of Erie County Courts.

## Inclosure 12 in No. 1.

*Deposition of Thomas R. Stocking.*

United States of America, State of New York, Erie County Sessions.

*Thomas R. Stocking*, of the city of Buffalo, in said State and County, merchant, being duly sworn, maketh oath and saith, that he is an American citizen, and is well acquainted with William Wells, of the city of Buffalo, and the reputed owner of the steam-boat "Caroline"; and that he, this deponent, had a conversation with said Wells about using the steam-boat "Caroline" in running from Black Rock Dam to Schlosser, and that said Wells then said his object was to make money in running the boat from the Dam to Schlosser, in opposition to the railroad; that he, the said Wells, intended to do a legal business; that he did not care anything about either party, meaning the Navy Islanders and Loyalists, and that this conversation took place from two to four days previous to the boat leaving the port of Buffalo; and this deponent further saith, that after the boat was destroyed, he heard the said Wells remark, that if he had been let alone, and his boat not destroyed, he should have had all the people off of Navy Island in three days; and further saith not.

(Signed) T. R. STOCKING.

Sworn and subscribed before me, this

1st day of February, A.D. 1838.

(Signed)

F. P. STEVENS,

Judge of Erie County Courts.

## Inclosure 13 in No. 1.

*Deposition of James Wilson.*

*James Wilson*, of Buffalo, and county of Erie, engineer on board the steam-boat "Caroline" at the time of her capture and destruction at Schlosser, had on board said boat at the time, and lost—

	Dol.	Cts.
One leather trunk, worth	5	00
One over-coat,	7	00
One dress coat of black broad cloth	18	00
Four cotton shirts	5	00
Three flannel shirts	4	00
One pair of flannel drawers	1	50
Two pair of pantaloons	7	00
Three pair of woollen socks	1	12½
	48	62½

United States of America, State of New York, Erie County Sessions.

*James Wilson*, of the city of Buffalo, in said State and County, a coloured man, being duly sworn, deposes and saith, that he is a free citizen of the said United States of America; and that on the 29th day of December last past, he was employed as an engineer on board of the steam-boat "Caroline," of and from Buffalo aforesaid; that on the morning of the day above-mentioned the said steam-boat left the port of Buffalo, and proceeded to a place called Navy Island, and proceeded from thence to Schlosser, in the United States of America, and from Schlosser made two trips to Navy Island on the day aforesaid; and that all the arms and munitions of war which this deponent had any knowledge of being taken on to Navy Island on the day aforesaid, in the said steam-boat "Caroline," was one small field-piece; and that said boat was destroyed on the 29th day of December last past, by a band of armed men; and that deponent had on board of said boat at the time she was destroyed the articles of property above mentioned, which were lost and destroyed, and he has never been able to recover the same, or find out where they are if not destroyed with said boat; and he, this deponent, has no doubt, and is fully satisfied, that the property above mentioned, lost and destroyed in said boat at the time of her capture and destruction, belonging to deponent, was justly and fairly worth the sums above mentioned, amounting in the aggregate to the sum of forty-eight dollars and sixty-two and a half cents; and further saith not.

(Signed)

his  
JAMES WILSON.  
mark.

Sworn this 29th day of January, 1838,  
before me.

(Signed)

F. P. STEVENS,  
*Judge of Erie County Courts.*

## Inclosure 14 in No. 1.

*Deposition of William Hinton.*

*William Hinton*, of the city of Buffalo, and who was cook on board the steam-boat "Caroline" at the time of her destruction at Schlosser, had on board said boat, and lost—

One over coat, green blanket, worth	-	10-00	dollars.
One striped vest	-	1-00	
One cotton striped shirt	-	1-00	
One pair blue broad-cloth pantaloons	-	2-00	
One cotton pocket handkerchief	-	.25	
One Tatpalon hat	-	1-00	
One pair of slippers	-	.50	
Total			- 15-75 dollars.

United States of America, State of New York, Erie County Sessions.

*William Hinton*, of the city of Buffalo, in the county and state aforesaid, a coloured man, being duly sworn, maketh oath and saith, that he is a free citizen of the United States of America, and was, on the 29th day of December last past, employed on board of the steam-boat "Caroline," of and from the port of Buffalo, as cook, and that he took with him on to the said boat the articles of property above mentioned, all and every one of them, and that the same property was justly and fully worth the sums above mentioned, amounting in the whole to the sum of 15 dollars and 75 cents; and that at the time said boat was captured and destroyed in the manner stated in the annexed affidavit of James Wilson, deponent had said property in said boat and left it there, and the same was destroyed and lost to him, and he has not been able to find it if the same has not been destroyed; and that deponent did not see any arms or munitions of war of any kind carried on said boat to Navy Island, except one keg, which he supposed contained shot of some sort, either iron or lead, and one small field-piece, which he believes was an iron six-pounder; and further saith not.

(Signed) <sup>His</sup> WILLIAM HINTON.  
mark.

Sworn this 29th day of JANUARY,  
1838, before me, (Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

Inclosure 15 in No. 1.

*Deposition of John Johnson.*

*John Johnson*, of the city of Buffalo, and who was fireman on board of the steam-boat "Caroline" at the time of her destruction at Schlosser in December last, had on board of said boat, and lost—

One over coat, pilot cloth, worth	-	5-00	dollars.
One vest	-	2-00	
One coat	-	3-00	
One pair boots	-	3-00	
One pair pantaloons	-	3-50	
Total			- 16-50 dollars.

United States of America, State of New York, Erie County Sessions.

*John Johnson*, of the city of Buffalo, in the state and county aforesaid, a coloured man, being duly sworn, maketh oath and saith, that he is a free citizen of the United States of America, and was, on the 29th day of December last past, employed on board the steam-boat "Caroline," of and from the port of Buffalo, as a fireman, and that he took with him on board of said boat the several articles of clothing and property above mentioned, and that each and every of the said articles of property above mentioned

were severally justly and fully worth the several sums of money above mentioned, and amounting in the whole to the sum of 16 dollars and 50 cents; and that at the time the said boat was captured and destroyed in the manner stated in the annexed affidavit of James Wilson, the above-mentioned property was in said steam-boat, and was left in said boat by this deponent when he went off of said steam-boat, and the same was destroyed and lost to this deponent, and he has not re-possessed himself of the same, and he does not know where it is, but has no doubt the same has been burnt up and destroyed in the said steam-boat; and that he, this deponent, did not see any arms or munitions of war of any description whatever carried on to Navy Island in said steam-boat, except one small field-piece, called a six-pounder; and further this deponent saith not.

(Signed) <sup>His</sup> JOHN M. JOHNSON.  
mark.

Sworn this 29th day of January,  
1838, before me, (Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

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Inclosure 16 in No. 1.

*Deposition of Pierre A. Barker.*

United States of America, State of New York, Erie County Sessions.

*Pierre A. Barker*, of the city of Buffalo, in the state and county aforesaid, being duly sworn, maketh oath and saith, that he was on the 1st day of December last past, and still is, the Collector of the Customs and Inspector of the Revenue for the district of Buffalo Creek in the State of New York, and that he knew the steam-boat "Caroline" before her capture and destruction, and that the annexed papers, being a Licence and Enrollment of the said boat, were made out the day they bear date, but the same were not actually taken from the Custom House by Mr. William Wells, of the city of Buffalo, to whom they belong, until about the 29th day of December last past, as this deponent believes; and that he has no knowledge of any transfer of said boat having been made at any time by said William Wells to any person whomsoever, from the date of said papers to the time of her reported destruction at Schlosser on the night of the 29th day of December last past; and that James W. Brown, whose signature is written to the annexed papers above mentioned, was, at the time they bear date, a deputy of this deponent, in the office of Collector aforesaid; and further this deponent saith not.

(Signed) **PIERRE A. BARKER.**  
Subscribed and sworn before me this  
1st day of February, 1838, (Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

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Sub-Inclosure 1 in Inclosure 16 in No. 1.

ENROLLMENT.

No. 49.—(Forty-nine.)

IN conformity to an Act of the Congress of the United States of America, entitled, "An Act for Enrolling and Licensing Ships and Vessels, &c.," passed the 18th February, 1793, and "An Act to Regulate the Foreign and Coasting Trade on the Northern, North-Eastern, and North-Western Frontiers of the United States, and for other purposes," passed 2nd March, 1831, William Wells, of Buffalo, New York, having taken or subscribed the oath required by said Acts, and having sworn

that he is a citizen of the United States, sole owner of the steam-boat or vessel called the "Caroline" of Buffalo, whereof he is at present master: and, as he hath sworn, is a citizen of the United States, and that the said ship or vessel was built at Ogdensburgh, New York, in the year 1824, as appears by her Enrollment, dated at the Port of Buffalo, New York, June 27, 1837, and numbered thirty-four (34). And the said Enrollment having certified that the said steam-boat or vessel has one deck and no masts, and that—

Her length is seventy-one feet	-	-	-	71	0
Her breadth is twenty feet and six inches	-	-	-	20	6
Her depth is five feet and six inches	-	-	-	5	6

and that she measures forty-five tons and ninety ninety-fifths; that she is a steam-boat, has no galleries and a figure-head. And the said William Wells having agreed to the description and admeasurement above specified, and sufficient security having been given in conformity with the terms of said Acts, the said steam-boat has been duly enrolled at the Port of Buffalo Creek.

(L.S.) Given under my hand and seal of office at the Port of Buffalo Creek in the said district, this 1st day of December, 1837.

(Signed) JAMES W. BROWN,  
Deputy Collector.

Sub-Inclosure 2 in Inclosure 16 in No. 1.

LICENCE.—No. 58. (Fifty-eight.)

District of Buffalo Creek, Port of Buffalo Creek.

IN pursuance of an Act of Congress of the United States of America entitled, "An Act for enrolling and licensing ships or vessels, &c," passed the 18th February, 1793; and "An Act to regulate the Foreign and Coasting Trade on the northern, north-eastern, and north-western frontiers of the United States, and for other purposes," passed the 2nd of March, 1831. William Wells having given bond that the steam-boat, called the "Caroline," whereof the said William Wells is master, burden forty-five and ninety ninety-fifths tons, as appears by her enrolment, dated at the Port of Buffalo, New York, December 1, 1837, and No. (49), forty-nine, shall not be employed in any trade while this licence shall continue in force, whereby the revenue of the United States shall be defrauded, and having also sworn that this licence shall not be used for any other vessel, licence is hereby granted for the said steam-boat "Caroline" of Buffalo, to be employed in conformity with the terms of said Acts, for one year from the date hereof and no longer.

(L.S.) Given under my hand and seal of office at the Port of Buffalo Creek, in the said district, this 1st day of December, 1837.

(Signed) JAMES W. BROWN,  
Deputy Collector.

Inclosure 17 in No. 1.

Depositions of William Taylor and Elisha Lee.

United States of America, State of New York, Erie County Sessions.

William F. P. Taylor, of the city of Buffalo, State and County aforesaid, and Elisha Lee, of the same place, being duly sworn, each for himself saith, and the said William F. P. Taylor saith, that he is an American citizen, and has been engaged in the forwarding business on Lake Erie

and the Upper Lake for fifteen years past, and is well acquainted with steam-boats on the said lakes; their mode of construction and capacity for doing business, and has known the steam-boat "Caroline" several years, and has understood she was originally built of live oak, and that the said "Caroline" was rebuilt new from light water-mark some time last season, and that, exclusive of her engine-boilers and outfit, and including her hull, joiner-work, and painting, the said steam-boat "Caroline" was worth 60 dollars per ton on the 29th day of December last past, and if the engine and boiler of the said "Caroline" were in a good running condition, this deponent would estimate the said boat at 100 dollars per ton, and think she was worth that sum exclusive of her furniture; and the said Elisha Lee, for himself saith, that he is an American citizen and a steam-boat engineer and a boiler-maker, and was well acquainted with the engine and boiler on board the steam-boat "Caroline;" that the engine on board of said "Caroline" on the 29th day of December last past, was a good one and would work fifteen horse-power and upwards; the boiler was old but in good repair on the day aforesaid, and would last with careful usage from two to three years; and that the said steam-engine and boiler were justly worth on the said 29th day of December last past the sum of 1,800 dollars; and further these deponents say not.

(Signed) ELISHA LEE.

Sworn and subscribed this 2nd day of  
February, 1838, before me, (Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

(Signed) W. F. PORTER TAYLOR.

Sworn and subscribed by the above-named William  
F. P. Taylor, this 3rd day of February, 1838,  
before me, (Signed) F. P. STEVENS,  
*Judge of Erie County Courts.*

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Inclosure 18 in No. 1.

*Mr. Stevens to Mr. Forsyth.*

Dear Sir, *Lockport, New York, January 23, 1838.*

AT suggestion of H. W. Rogers, district-attorney of Erie, I inclose to you a copy of the Grand Jury's minutes, taken by them, relative to the murder on board of steam-boat "Caroline," at Schlosser.

Your's truly,  
(Signed) R. H. STEVENS.

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Sub-Inclosure in Inclosure 18 in No. 1.

*Niagara General Sessions, January Term, 1838.*

The People of the State of New York,

*versus*

Allen McNab, John Mosier, James Chalmers, Angus McLeod, Edgeworth Usher, Edward Zealand, John B. Warrens, William Warrens, Peter Rigley, Thomas McCormick, Rolland McDonald, Jared F. Jarvis.

**BILL FOR MURDER.**

COMPLAINT in this case for murder of William Durfee and others on board steam-boat "Caroline," at Schlosser, in the town of Niagara, 29th of December last.

\_\_\_\_\_ being duly sworn, deposes and says, that he was in Canada near Chippewa, at the time steam-boat was burnt, lives near



there; he has given his name to district Attorney, but don't want to be known just now. There were about twelve boats started from Chippewa Creek, containing about seven to twelve men in each. It was said there that they were to burn steam-boat then lying at Schlosser wharf. The steam-boat was then in sight of Canada side. Before boats started some of the men wanted some swords that the officers or horsemen had, and they were not willing to let these boatmen have them, when a man at the officers' barracks, whose name he learned was Allen McNab, said to these horsemen or officers, that he, McNab, would be responsible for a safe return of the swords. These horsemen then gave the swords to men who were going across in boats. It was the general rumour in all the camp, that McNab ordered this expedition and that John Mosier was to head it, and the Guards so understood it. About twelve at night two beacon lights were struck up on the Canada shore, and a few minutes after this he saw steam-boat on fire, and it went over the falls; when the men who went out on these boats came back and passed these beacon lights, they hurra'd, and said it was a Yankee trick. It was said there that McLeod bragged of having killed three of the damned Yankees; saw a young man they called a prisoner in the guard house, an officer each side of him examining him; saw a man next morning at Schlosser, he was shot through his head and was dead, his name was William Durfee. Captain Harding was wounded in his head with a sword-cut.

*Luke Walker* sworn; says, last Friday he was on board steam-boat "Caroline;" twenty-five or thirty were on board her. About half past twelve at night first he heard was "here is the enemy," and they then in boat all rushed up stairs. One man lay on deck wounded; they threw down witness on top of this wounded man; they asked witness if he knew where the men were who were on board of the steam-boat, and witness said "No;" they then told witness to tell or they would run him through; witness said to them that he did not know as he had only come on board to sleep. They then went to a man who was wounded, and asked him same, and the man answered same as witness did. They then caught witness and threw him into a yawl boat, leaving wounded man on deck; he heard a pistol go off; heard a man hollow "Murder," behind partition. They asked this man when the men were on board; the man said he did not know. One said "run him through," and the man behind partition hollowed "Murder." One fellow, after they got into Canada, told witness "he went a number of times to run witness through, but did not do it after all;" witness did not hear this man's name, he was a young man, and was about twenty-two years old, had on no whiskers, was thick set and short.

Captain McCormick was on board boat the witness was put into; heard him so called by the crew, just as steam-boat took fire, crew called and said, "Where is Captain McCormick, and he said, "I'm here, let me jump in," and he got off steam-boat into yawl boat. After they got across into Canada, he heard Captain Mosier's name spoken of. He heard Captain Zealand's name when he was on steam-boat. He heard Jarvis' name mentioned, but can't tell whether it was on steam-boat or after they got into Canada, is not sure which; he went into officers' camp and saw Colonel McNab, who asked witness if he knew steam done business for Navy Island or not. When there (in officers' camp) he heard one man say he knocked one man's brains out with pistol down into the fire-hole. McNab was there then in camp, and heard this. Another said he run a man through three times, down among engines, and left him there. There was much crowd there in McNab's quarters. Witness was told McNab was head man, and was a fine man; was sent for by McNab three or four times. The second time he went to McNab, he called a Justice of Peace, and swore witness as to what steam-boat was going to do. One said he turned over a negro on deck, dead. Over in Canada witness saw a man with the guard dressed in blue roundabout and cloth cap, who asked witness if he did not recollect of riding in waggon near Black Rock with him the day before the night the steam-

boat was burnt; witness answered "No;" (but witness says he knew him but would not let him know it; he did ride with him in a waggon near Black Rock;) the man then said, "You are an old boy and ought to be hung." The man was then spoken to by guard; they said to the man, "You were not on that steam-boat?" the fellow answered that he was, and could prove it; this man was about twenty-five years old, and shortish, and witness would know him anywhere; he looked some like a sailor, (this was Monday morning.) Five boats came to steam-boat, understood that twelve started to go. After Mc Nab swore witness he gave him 5s. or 6s., and told him to go home. Another man was taken from steam-boat to Canada, and they said they would hang him. When these men came on to steam-boat, they hollowed "No quarter;" the men who belonged to boat had no arms. He heard in Mc Nab's camp a man tell Mc Nab that none of their men were hurt, except one old man, who was wounded in the arm, and another man said he guessed some of their own men did it by mistake.

Witness has been a driver on Erie canal; when he was on steam-boat, he expected to be run through; but he should not have flinched it, but have stood it. Mc Nab asked witness if he was intending to go on to the island. Witness told him "No;" (for he knew too well that if he did tell him right he should not have got back, and so he told him a straight story); there was about fifty in these five boats; seven was in the boat witness was put into. Captain Mc Cormick jumped into yawl boat; and as he jumped into it, he (Mc Cormick) stubbed his toe and fell into the river, and they pulled him out; and then they were a little bewildered, and went down stream, and they hollowed out, "This is the way, and that is the way," and they turned their boats about and run, so as to go above lights on the other side the river.

*Thomas Sage* sworn; says, he was in Canada last Friday; came home across Ferry at Lewiston, four p.m. Saturday; he was at St. David's in Canada, and heard men there talking about burning steam-boat, and that it went over falls with twenty odd in it. One man was there who told witness he jammed them down in the engine way and bolted hatches, and served them all as they would serve all the damned Yankees; Mc something, it sounded some like Mc Donald; could not say certainly. Some of these men were from Coburg; Chisholm's name was mentioned as one of the crew; Mc Leod and self was also named; Warren's name was mentioned.

*Gilman Appleby* sworn; says, 29th December he was in steam-boat "Caroline." Witness was master; had on American flag; British fired at steam-boat while coming down above Grand Island; the men on board steam-boat were thirty-three in all; gave his berth to a gentleman from Rochester to sleep in. Captain Harding got out first. When witness was going up he met Mc Leod, who said, "Down you damned Yankee," and then run sword near witness' breast down his belly; it went between clothes and skin, and witness fell and feigned dead; saw one dead man on deck; did not know who it was; they shot boy called Little Bill; his real name was Johnson; heard Mosier's name called while on deck; there must have been eleven killed, as this number is missing, besides the prisoners. He knew three which he saw killed—William Durfee, Little Billy, and a dead man on deck. One Negro was wounded; Mr. King so badly wounded that he may not live; Harding wounded by sword-cut on head. Some of them said half a dozen times, "Show the damned Yankees no quarters;" they said so before they came into boat. There was not an armed man on the steam-boat, other than those who came from Canada on to her in the small boats; not even so much as a pocket-pistol. This fellow who was taken prisoner (not Walker) was a man who pretended he had come from Duncomb's army; witness saw his affidavit at Buffalo which was taken in Canada to that effect. Little Billy was run through while witness was in warehouse; he groaned and staggered and fell into river; witness saw the blood, and he saw where

the ball struck the pier. This spy, who said he was from Duncomb's army, swore in Canada that there were thirty armed men on steam-boat when Canada boats came up; witness says there was not one armed.

*Daniel J. Stuart*; resides at Buffalo; was on steam-boat "Caroline" same night she was burnt. The crew and passengers were not armed. Witness was watch on deck; heard no names called on deck; the first man who came on deck was a full faced man, and as witness met him, the man unsheathed his sword, and witness turned, and a gun was fired from below in small boats, but it did not hit witness. Another gun was fired, and witness run and up boat. This spy was called Peter; saw lights across on Canada shore.

*Charles F. Harding*; lives at Buffalo; Captain Canada was on watch, and came and said a boat was coming, and in a few minutes came again and said, several boats are coming. The firing commenced; witness started and fell over a dead man; heard swords ringing, and shouting, and saying, "Fire!" Witness got on fore-castle, and looked for something, in hopes to help his friend Appleby and Wells who were below; a man rushed at him with a sword and said, "Who are you?" and witness said, "Stop;" the fellow struck and hit the upper deck. Another man was looking at witness, probably to see who witness was. Witness grabbed the fellow's hands around the butt end of a pistol. This fellow might have gone overboard if he was a mind to. Another man came before witness and made a stroke, but did not hit; struck twice and did not hit; then a volley of bullets came from aft; and as witness turned he was hit on head with sword, he stumbled and fell partly down over a Negro; and Negro shoved the witness forward some; witness kept hold of Negro's shoulder. The man who struck witness, he supposes, lives at Coburg, and thinks his name was Warren; eleven were killed; thirty-three on board; there were five boats, about sixty men. Mr. Longley, merchant of Buffalo, swore, that Rolland Mc Donald, brewer of Coburg, was one of the masters of the Canada boats and one of the gang. Peter Rigley was spy.

*Sylvanus Starring*, of Buffalo, sworn; says, he was on watch between eight and ten o'clock at night; while he was on watch, two men came and said they wanted lodgings; they went away. Steam-boat's crew had no arms. When first alarm was given witness supposed it was a joke, but soon another alarm was given, and witness jumped and put on boots, and the firing began, and singing out "Give the damned rascals no quarters; kill every damned one of them, and to secure gangways." Witness picked up his coat and put it on his arm, and made for forward gangway, and near chimney were a cluster of men, who appeared to be at work at some one, and witness got along among their legs, and got a blow over the eye as with a musket-stock; saw no man that he knew. As witness was struck, he cried out, "hold on;" he then got another blow, which brought him on to the deck; he ran a little way, and stopped, and thought a little, and started to run again, and was afraid and could not run. Saw Durfee after he was killed; this Durfee stood watch that night with the witness in the evening. As near as he can tell, there were thirty-odd men on board steam-boat, and he can account for eighteen. He took the invaders to be Canadians. After witness stopped, he saw lights over on Canada shore, near the cut from Chippewa Creek, in the Niagara River. The murderers went towards these lights. After they had fired the steam-boat they gave three cheers.

*William Wells*, of Buffalo; got names from Mc Kenzie, Angus McLeod, Mc Giver, now or late clerk with Mc Lin of Chippewa, John Mosier. Witness got off boat after she was on fire; they had made two or three attempts to fire her. Witness was the last man who got off boat, and he stumbled over some men below who were alive, and they probably went over Falls.

Some one seized Durfee by collar and said, "Who the devil are you? go ashore with me, or I will blow your damn'd brains out," &c. He soon heard a gun go off. He looked up on deck, and saw three have hold of one man by his arms; another was behind, punching this man, or cutting him to pieces. Witness owned this steam-boat; had thirty-three on board; ten were killed, or went over Falls. Witness passed one dead man on the dock, who was not Durfee.

*Joshua H. Smith*, of Buffalo was sworn, and said, on the night the boat was burnt, at twelve o'clock, he was in ladies' cabin when alarm was given. The men on board steam-boat were not armed. When alarm was given second time five or six boats were coming up armed. Starring was along a little forward, and a gun was fired, and a man behind witness fell on deck. Some blood got on to the witness from this man. This man could not have been Durfee. Witness got off, and run up rail-road, and when boats went away, he went back to dock, and found Durfee on dock dead. Thirty-three were on board, seventeen accounted for, so far as he can tell; calling the spy one would make eighteen who have been found. Saw lights strike upon Canada shore, and those boats rowed towards these lights; don't know any of them.

*Robert H. Steele*, of Lockport, sworn. Was at Hamilton, and went to get a pass to come home; and the man told him they barred the hatches down, and some twenty went over Falls. The man had a piece of the wreck of the boat in his hands, and said Mc Donald and Mc Cormick were in the affair. The man pretended they found the boat at Navy Island. This man was talking with Colonel Chisholm, who seemed not to give credit to what was said, and said people were fools for believing all they heard. Did not learn the names of the men.

#### Niagara County Sessions.

I, *Robert H. Stevens*, district attorney of Niagara County, in the State of New York, do certify that the foregoing is in substance and effect all the testimony taken by the Grand Jury of said county at the late Niagara general sessions of the peace, at which time a complaint was pending against the several persons named at the commencement of this testimony. And I further certify that I have copied the foregoing from the original minutes taken by said Grand Jury, and by them handed to me, and now in my possession.

Dated at Lockport, 25th January, 1838.

(Signed)

R. H. STEVENS.

#### No. 2.

*Viscount Palmerston to Mr. Stevenson.*

*Foreign Office, August 27, 1841.*

THE Undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, in proceeding to reply to the note which Mr. Stevenson, Envoy Extraordinary and Minister Plenipotentiary from the United States, addressed to him on the 22nd of May, 1838, upon the subject of the capture and destruction of the steam-boat "Caroline," by a detachment of Her Majesty's forces, on the River Niagara, on the night of the 29th of December, 1837, thinks it necessary, in the first place, to explain the reasons why this reply has not been made sooner.

Mr. Stevenson's note, which had been preceded by a correspondence on this subject between Mr. Fox and Mr. Forsyth, in January, 1838, was accompanied by voluminous documents, purporting to contain statements of facts collected by the law officers of the United States' Government, from a variety of witnesses, whom they had examined for this purpose; and it was absolutely necessary that, before Her Majesty's Government

could give a full answer to Mr. Stevenson's note, copies of those documents should be sent to the Governor-General of Canada, in order that he might direct witnesses on the British side to be examined, and that he might transmit to Her Majesty's Government correct accounts of those transactions to which the statements of the American witnesses related.

The proceedings connected with these inquiries necessarily occupied a considerable portion of time, and it was not till the spring of the year 1839, that full information was received.

Other border conflicts also happened, which appeared to Her Majesty's Government to diminish the relative importance of the affair of the "Caroline;" and it seemed to Her Majesty's Government, that the Government of the United States could not but feel that the result of all these events must be, that there was a large account to be settled between the two Governments, which must be adjusted entirely, or not at all; and that it was useless to discuss separate and particular incidents, as if they were the only points to be arranged between the two countries.

Moreover, the Government of the United States was perfectly aware, even before Mr. Stevenson's note, of May, 1838, was written, that Her Majesty's Government considered the destruction of the "Caroline" as a justifiable act of self-defence, properly done by the local British authorities for the protection of British subjects and their property, and for the security of Her Majesty's territories.

This opinion had been made known to the United States' Government by Mr. Fox, in an Official Note to Mr. Forsyth, and by the Undersigned, in more than one conversation with Mr. Stevenson.

Moreover, Mr. Stevenson, in his Note of May, 1838, did not represent the transaction as being the unauthorized enterprize of private individuals, acting upon their own responsibility, and which it was doubtful whether Her Majesty's Government would or would not consider as being a matter for which the British Government and nation were answerable; but Mr. Stevenson, on the contrary, represented the transaction as one which had been deliberately planned with the knowledge and approbation of the Lieutenant-Governor of Upper Canada, and executed by armed troops, forming a portion of the British force stationed at Chippewa; and Mr. Stevenson called upon Her Majesty's Government to disavow and disapprove the conduct of the Lieutenant-Governor in this respect. But Her Majesty's Government did not, after the receipt of Mr. Stevenson's Note, retract the opinions expressed on this matter by Mr. Fox and by the Undersigned, nor did Her Majesty's Government in any manner disavow or disapprove the conduct of the Lieutenant-Governor of Canada; and, therefore, both that which Her Majesty's Government had done, and that which Her Majesty's Government abstained from doing, could leave no doubt whatever on the mind of the President, that the British Government intended to decline to comply with the demand contained in Mr. Stevenson's note.

It is to be presumed that it was a conviction to this effect, which induced Mr. Stevenson to refrain from pressing for an answer to his Note, without special instructions from his Government to do so; and which, also, led Mr. Forsyth to instruct Mr. Stevenson to abstain till further orders from taking any step in the matter. The Government of the United States seems, like that of Her Majesty to have felt that no good could arise from the communication of a formal refusal on the part of Great Britain to comply with a demand explicitly made by the United States, and that it might be better to let that refusal be inferred from the silence of the British Government.

But as recent communications received from the United States' Government show that a formal reply to Mr. Stevenson's Note of the 28th May, 1838, is desired by the President, the Undersigned feels that he is bound to give it; and he has, therefore, now again to declare, that, in the opinion of Her Majesty's Government, the capture and destruction of the "Caroline" was a justifiable act of self-defence, and that Her Majesty's Government, far from disavowing and disapproving the then Lieutenant-Governor of Canada, who sanctioned, or the officers and men of Her Majesty's forces, who planned and executed this transaction; on the con-

trary, fully avow and entirely approve the conduct, in this respect, of all those persons; that no redress is due by Her Majesty's Government on this account, and that, therefore, none can be given.

The grounds upon which this opinion rests, will be found in the following summary of the leading facts of the case; and Her Majesty's Government cannot but indulge a hope that the Government of the United States will see in this statement, and in the proofs by which it is supported, sufficient reason for the decision of Her Majesty's Government.

If a wrong had really been done by Her Majesty's colonial authorities, Her Majesty's Government would most readily have given reparation; but if on the other hand it can be shown that no wrong has been done, and that the transaction in question was, in truth, a defensive measure on the part of the British authorities in North America. The Government of the United States is too just, to press for a reparation which is not due.

In December, 1837, no civil war existed in Canada; there was no party within the British Provinces arrayed in arms against the Queen's authority; disturbances had, indeed, broken out in Lower Canada in the autumn of 1837, but those disturbances had been promptly quelled by the energetic loyalty of Her Majesty's Canadian subjects, and by the action of Her Majesty's regular troops; those disturbances had ended after a short conflict, and with little loss of life on either side; the leaders of the insurrection had fled to the United States, and for some time before December, 1837, order and tranquillity had been restored in the Canadian provinces.

In this state of things, a small band of Canadian refugees who had taken shelter in the State of New York, formed a league with a number of citizens of the United States for the purpose of invading the British territory, not to join a party engaged in civil war, because civil war at that time in Canada there was none, but in order to commit within the British territory the crimes of robbery, arson, and murder. Her Majesty's Government and Her Majesty's Minister at Washington have called these people pirates, and the American Secretary of State in a recent note to Mr. Fox observes, that this name cannot properly be applied to them. The Undersigned is ready to admit that, technically, the word "pirate" is applied to persons who, without authority or commission, commit upon the high seas the crimes which this band of offenders determined to commit upon the land; but if the term is in this case inappropriate, it is so, not on account of the nature of the acts which these men were about to perpetrate, but on account of the element on which those acts were to be committed.

The intentions of these men were publicly known; but the Government of New York took no effectual steps to prevent them from carrying those intentions into effect. By a neglect on the part of that Government which seems to admit of but one explanation, the storehouses which contained the arms and ammunition of the State were left unguarded; and were consequently broken open by this gang, who carried off from thence, in open day, and in the most public manner, cannon, and other implements of war.

After some days of preparation, these people proceeded, without any interruption from the Government or authorities of the State of New York, and under the command of an American citizen, to invade and occupy Navy Island, a part of the British territory; and having engaged the steam-boat "Caroline," which, for their special service, was cut out of the ice in which she had been inclosed in the port of Buffalo, they used her for the purpose of bringing over to Navy Island from the United States' territory, men, arms, ammunition, stores, and provisions. The preparations made for this invasion of British territory by a band of men organized, armed, and equipped within the United States, and consisting partly of British subjects and partly of American citizens, had induced the British authorities to station a military force at Chippewa, to repel the threatened invasion, and to defend Her Majesty's territory.

The commanders of that force seeing that the "Caroline" was used as a means of supply and reinforcement for the invaders who had



occupied Navy Island, judged that the capture and destruction of that vessel would prevent supplies and reinforcements from passing over to the Island, and would moreover deprive the force in the Island of the means of passing over to the British territory on the main land. They therefore determined at once to capture the "Caroline," both for the purpose of impeding the further progress of the invaders, and to hasten their retreat from Navy Island. The British commanders having taken this determination, lost no time in carrying it into execution, because every hour's delay would have defeated their purpose; but in order to avoid as much as possible, loss of life and effusion of blood on either side in accomplishing their object, they chose to capture the vessel by a surprize in the night, when the marauders, being assailed unawares, and in the dark, by persons acting upon a concerted plan, would be less able to resist, and would be more easily overcome than if attacked by daylight, and necessarily warned for defence by seeing the gradual approach of the British boats.

Accordingly, seven British boats, with an officer and eight men in each, all of them volunteers from the British force stationed at Chippewa, started on the night of the 29th of December, 1837, from Chippewa, to cut out the "Caroline," which they expected to find at Navy Island, but which they discovered lower down the river, moored at the wharf at Fort Schlosser.

After being challenged by the watch on deck, they boarded the vessel, and after a short but smart resistance, during which, some of the boarding party were severely wounded, they carried the vessel, drove on shore the crew and the other persons who were on board, cast her off from her moorings, and proceeded to tow her away, intending to carry her over to the British shore. But they found her too heavy to be towed up against the stream, and therefore, after carefully seeing that there was nobody left on board, they set her on fire, and let her drift down to the Falls. Having thus accomplished their object, they returned quietly to Chippewa, without any retaliatory attack upon that portion of the hostile band who were collected at Fort Schlosser, and who intended, no doubt, to pass over the next day in the "Caroline" to Navy Island.

In executing this operation, the British party used no greater degree of violence than was necessary to carry the vessel. They took with them no fire-arms, and had nothing but cutlasses, and some swords borrowed for the occasion from the cavalry stationed at Chippewa.

Such of the persons found on board the "Caroline" as did not resist, were put on shore uninjured; and as the vessel was close to the wharf, the greater part of the persons on board landed without difficulty. It appears that a few were wounded, and Her Majesty's Government very much regret that one American citizen, named Durfee, lost his life by a shot through the head. But as it is positively declared by the British party that they took no fire-arms with them, and as it is proved that the American party had fire-arms and used them, it seems possible to account for the death of Durfee without assuming that he fell by the hands of the British party.

The details, of which the foregoing statement is a summary, are given in the inclosures to this note; and the Undersigned requests that Mr. Stevenson will have the goodness to draw the special attention of his Government to the particulars contained in those sub-inclosures.

For an attentive perusal of those inclosures will show how erroneous are many of the statements which have been transmitted to Mr. Stevenson, and of which he gave a summary in his note of December, 1838. But some other parts of that summary are perfectly consistent with the British statement, and tend to confirm instead of contradicting it.

Mr. Stevenson begins his narrative by stating that, towards the end of December, 1837, the "Caroline" was cleared from the port of Buffalo, with a view of running between that port and Schlosser, and for the purpose of carrying passengers and freight. But Mr. Stevenson omits to state that the "Caroline" was "cleared" not only from the custom-house, but from the ice in which she had been locked up for the winter; and he has omitted to explain whence and how arose that sudden outburst of



traffic on the river between Buffalo and Schlosser, which, in the depth of a North American winter, could render it a profitable undertaking to set on the "Caroline" as a passage vessel between those two points, between which there is an established railway communication.

Mr. Stevenson commences his narrative by stating that he is about to give a recital of "the prominent and important facts" of the case; and yet he omits all mention of the most prominent and most important fact of the whole transaction, of that fact which, indeed, is the very foundation of the whole proceeding, and in which lies the essence of the whole matter; namely, the then recent invasion of the British territory at Navy Island, by a band of British refugees and of American citizens, commanded by a citizen of the Union, organized and equipped under the eyes, and there is too much reason to suspect, with the connivance of the authorities, of New York, and provided with cannon and other arms, and warlike stores which were the public property of that State, and were taken openly and without impediment from the storehouses of the State.

Mr. Stevenson, however, is obliged to admit that the very first thing that was done by this steam-vessel, which had cleared out to carry passengers and freight between Buffalo and Fort Schlosser, was to land passengers and freight not at Fort Schlosser at all, but at Navy Island, then occupied by the hostile force which had invaded it from the United States. Mr. Stevenson says, that the "Caroline" then went on to Fort Schlosser, but he does not assert that she landed at that place any passengers or freight from Buffalo; but he admits that this steam-boat, whose professed employment was to run between Buffalo and Schlosser, having first disembarked her passengers and freight from Buffalo, not at Schlosser, but at Navy Island, and having arrived subsequently at Schlosser, returned not to Buffalo, but to Navy Island, and then not once, but twice, in the very day on which she arrived at Schlosser, went from Schlosser to Navy Island, and back from Navy Island to Schlosser. And thus it appears, even from Mr. Stevenson's own statement, that the real purpose for which the "Caroline" was employed was not to run with passengers and freight from Buffalo to Schlosser, and from Schlosser to Buffalo; but to convey passengers and freight from Buffalo and from Schlosser to Navy Island, a place not within the United States' territory, but a British island, to which, in ordinary times, no man would have thought of carrying either passengers or freight, because it has scarcely any inhabitants, and has neither accommodation for travellers nor demand for mercantile commodities; and is, in fact, in consequence of the strength of the current at that point, so difficult of access for rowing boats, that on that account the invaders found a steam-vessel necessary as a sure and safe means of communication with the shore.

What then was the reason why, in the depth of winter, the "Caroline" carried in one single day three cargoes of passengers and freight to this usually almost uninhabited island? Why the answer is plain: these pretended passengers were reinforcements for the band of invaders who had seized possession of that portion of British territory; and the freight consisted of arms and warlike stores. This fact is perfectly notorious, and has been admitted by Mr. Appleby the master, who, in his recent examination in the case of Mr. McLeod, confessed that part of this pretended freight was nothing more or less than a six-pounder. It is clear, therefore, from Mr. Stevenson's own statement that the "Caroline" was not engaged in the innocent occupations of commerce, but was employed to assist the hostile proceedings of the band who had invaded the British territory; that she had three times in one day made landings on the British territory for hostile purposes; that her character was identified with that of the band on Navy Island; and that the British authorities were fully justified in treating her as an enemy's vessel and in capturing or destroying her as such.

Mr. Stevenson then goes on to say, that the "Caroline" was moored for the night to the wharf at Fort Schlosser; and that on board of her there were her own officers and crew, amounting to ten in number, and twenty-three other individuals, all citizens of the United States, who were unable to procure lodgings at the Inn. That Inn, indeed, as is well known, was entirely filled that night with other citizens of the United States who

had, no doubt, repaired thither for the same purpose for which the above-mentioned twenty-three had come; and Mr. Stevenson says, that all the thirty-three persons on board the "Caroline" retired to rest, except the night watch. Now upon this the Undersigned would beg to remark, in passing, that considering that the "Caroline" was a small steamer, pretended to be destined merely as a passage vessel in the river between Buffalo and Schlosser, it seems strange that she should have been encumbered with so large a number of officers and men; and the fact that the master deemed it necessary to set a night watch seems to indicate a consciousness on his part, that he was engaged in an undertaking which might, probably, expose him to the very danger which actually came upon him.

Mr. Stevenson then states, that about midnight the "Caroline" was boarded by people from four or five boats who, armed with pistols, swords, and cutlasses, began an indiscriminate attack upon the unarmed crew and inmates of the vessel under the cry of "Give no quarter;" that the steamer was yielded without resistance, and was then set on fire, and sent down the Falls.

Now upon this the Undersigned would beg to remark, that it is stated by the British witnesses, that the parties in the boats took no fire-arms with them; and there was evidently a good reason for this, because in the darkness of the night they could not have used fire-arms without danger to each other; for, although each might be able to distinguish friend from foe as far as his sword could reach, he could not possibly tell who might find himself in the way of the range of a pistol or musket bullet; and as the parties from the different boats were to board the "Caroline" at different parts and in opposite directions, they would, by using fire-arms, have been as likely to shoot one another as to shoot any of the enemy's party. The strong probability, therefore, is that the British statement upon this point is the true one; and as it is proved that the American party had fire-arms, it may not unnaturally be supposed that in the confusion of their surprise, and in the darkness of the night, they may have mistaken the report of the fire-arms discharged by their own party, for a report of fire-arms discharged by the boarders.

In a similar way it may be possible to account for the assertion, wholly untrue, that the boarding party cried out to each other to give no quarter; for it appears that one of the party desired another to put on shore unarmed one of the people found in the "Caroline," saying that they wanted the vessel, but did not want to make any prisoners: and in the hurry and alarm of the surprise the people on board the "Caroline" might have construed that declaration into an intention to give no quarter.

If, indeed, the boarding party had meant to put the people in the "Caroline" to death, and if it were true, as stated to Mr. Stevenson and recited in his Note, that a party of men from four or five boats who could not, therefore, well have been less than forty in number, and who are said to have been armed with swords and pistols, boarded by surprise a vessel containing thirty-three men wholly unarmed, mostly asleep at the time, and all of them unresisting, is it possible that if the intention of such a boarding party had been to give no quarter, a great portion of the people in the "Caroline" must not have perished that night? and yet the only one among the number who lost his life was Durfee, who, probably, fell by a shot from his own friends.

These facts, which are now clearly ascertained, completely vindicate the boarding party from the charge of unnecessary violence in performing the public service on which they were employed.

Mr. Stevenson then proceeds to say, that there was no fortification of any kind at Schlosser; that hostilities were not commenced on the American side; and that no shot from cannon or from other fire-arms had been discharged from the American shore on the morning of the 29th of December, as pretended by one of the British officers.

As to the last point, the Undersigned requests the particular attention of the United States' Government to the statements made regarding it by

the British witnesses, and on the correctness of which Her Majesty's Government must be permitted to rely.

That there was no fortification at Schlosser Her Majesty's Government are ready to admit, for though the place is called Fort Schlosser, Her Majesty's Government believe that no fortified building at present exists there. It is also perfectly true that no hostilities had been commenced on the American side, if by that expression Mr. Stevenson means the American side of the river; but that hostilities had been commenced by the Americans is now an historical fact, and those hostilities consisted in an invasion of British territory by an armed force from the State of New York. In fact, the people of New York had begun to make war against Her Majesty's Canadian Provinces. They had done so apparently with the connivance of the Authorities of the State; not only the New York territory at Schlosser had lost its neutral character, and had become enemies' land, but other portions of the territory of that State had assumed the same condition.

One or other of two things must be. Either the Government of New York knowingly and intentionally permitted the band of invaders to organize and equip themselves within the State, and to arm themselves for war against British territory, out of the military stores of the State; or else the State Government had lost its authority over the border districts; and those districts were for the moment in open defiance of the power of the State Government, as well as at war with the opposite British province.

In the first case the British Authorities in Canada had a right to retaliate war for war; in the second case they were no longer bound to respect as neutral that portion of territory which, by shaking off its obedience to a neutral Government, had ceased to be neutral, and could certainly not be entitled to the privilege of protecting persons who were actively engaged in making war upon Her Majesty's territory. And this is an answer to the objection, if it should be made by the United States Government, that even admitting that the "Caroline" was employed in the service of the invaders of Navy Island, which it is presumed will not longer be denied, the British authorities in Canada might have dealt with her as an enemy if they had found her within the British limits, but had no right to pursue and capture her within the limits of the United States.

The answer to that objection is, that although Schlosser is unquestionably within the limits of the United States, it had ceased at that time to preserve that neutral and peaceful character which every part of the United States was bound to maintain even if civil war had been raging in Canada; but which was, if possible, still more incumbent upon every portion of the Union, at a time when peace prevailed, not only between the United States and Great Britain, but within the Canadian Provinces themselves.

These then are the grounds upon which Her Majesty's Government conceive that the Government of the United States has no just right to demand reparation for the capture and destruction of the "Caroline," and these are the grounds upon which it is impossible for Her Majesty's Government to consent that any such reparation shall be made.

The Undersigned avails, &c.,

(Signed) PALMERSTON.

*Depositions of the British Officers and Volunteers engaged in the Capture  
of the Steam-boat "Caroline."*

Inclosure 1 in No. 2.

*Mr. Joseph to Mr. Beikie, Clerk of the Executive Council.*

Sir, *Comm. 62*  
*Government House, April 3, 1838.*

I HAVE received the commands of his Excellency the Lieutenant-Governor to direct you to convey to the honourable the Executive Council his Excellency's request that they will, with all convenient despatch, take such steps as they may deem expedient for obtaining what evidence it may be in their power to procure respecting the proceedings of the master and crew of the steamer, "Caroline," from the time of her being taken from her winter moorings at Buffalo to her capture and destruction by Her Majesty's force under Captain Drew.

I have, &c.,  
(Signed) J. JOSEPH.

Sub-Inclosure 1 in No. 2.

*Deposition of John Harris.*

*John Harris*, of London, in the London district, and province of Upper Canada, Esq., Master in the Royal Navy, maketh oath and saith, that he, this deponent, was one of the naval party at Chippewa, under Colonel Mc Nab during the occupation of Navy Island by the rebels and brigands from the United States, in the months of December and January last.

This deponent further saith, that on the 29th day of December last he was directed by the commanding officer to watch the motions of a steam boat expected from Buffalo to assist the rebel force on Navy Island; that about noon of the said 29th day of December he observed a steamer running into Schlosser, apparently from Buffalo. She remained a short time at Schlosser, then got under weigh, and ran across to Navy Island. This deponent observed a great many men on board the boat, which ran under Navy Island, and anchored opposite the house, on the east side of the island, where she remained a short time, then returned to Schlosser, and went alongside the wharf, taking back with her a very few men, apparently not more than her crew. This deponent further saith, that she remained almost an hour at the wharf, when she again returned to Navy Island, carrying a great number of men; she remained at the island until nearly five o'clock p.m., when she returned to Schlosser, and let off her steam. This deponent then returned to report her to the commanding officer. The deponent further saith, that arrangements were immediately made to cut her out and destroy her; that seven boats, armed, were ordered for the attack; that about ten o'clock the seven boats left Chippewa, under the command of Captain Drew, Royal Navy. Five of the boats reached Schlosser, carrying in all forty-one men; the other two boats missed the way. This deponent was in the boat with Captain Drew, who commanded the expedition.

This deponent further saith, that when the boat got within forty yards of the steamer, the sentry on her bow hailed the boats, and demanded the countersign, this deponent distinctly heard the sentry give the alarm, saying, "The enemy are coming;" the sentry instantly fired his piece, and in a few seconds the leading and other boats were alongside, and their crews had gained the deck of the steamer. This deponent further saith there were on board the steamer a number of men, armed, but most of them ran on shore as soon as the attack commenced. That on hearing

the alarm a number of men turned out of the house at the head of the wharf, a tavern as this deponent believes, and several shots were fired at the steamer; the house was about sixty yards from the steamer. This deponent observed one man wounded, who was put on the wharf; the wound was a sabre cut. This deponent further saith, that when the party got possession of the boat, she was cast off from the wharf to which she was chained in a most unusual manner, and evidently, as this deponent believes, with a view to guard against being suddenly cut loose. This deponent further saith, that the object of casting her off from the wharf, and taking her out in the stream was, that no private American property might suffer or be burned; that when out from the wharf she was fired in the cabin, on deck, and forward; that previous to her being fired, a little boy was found on board, who was put into the boat alongside, out of danger, by this deponent's order, and brought over to Chippewa. This deponent further saith, that the boy stated to this deponent, in the boat, on our return to Chippewa, that there were more than twenty men on board as a guard when he laid down to sleep, and that the tavern near the wharf was full of men armed ready to cross over next day to Navy Island, and that the steamer had taken across that day to Navy Island a number of armed men and one six-pounder, with shot, and ammunition, and provisions; and that on the next day it was intended she should take across more men, and cannon, and provisions.

(Signed) JOHN HARRIS.

Sworn before me, at London, the  
6th day of May, 1838.

(Signed) M. BURWELL,  
*Justice of the Peace.*

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Sub-Inclosure 2 in No. 2.

*Deposition of William Gaffeny.*

*William O. B. Gaffeny*, of London, in the London district, gentleman, personally came before me, one of Her Majesty's Justices of the Peace for the District of London, and on the Holy Evangelists, voluntarily maketh oath and saith, that he was one of the party who volunteered, under Captain Drew, R.N., to cut out the steam-boat "Caroline," from the harbour of Schlosser on the night of the 29th December last; that deponent was ignorant of where the vessel lay till he heard the sentinel hail the British boats, and on being answered, demanded the countersign, and then instantly fired on Captain Drew's party. That deponent on getting on board saw a number of persons running off the boat after first firing some shots. That deponent seeing the pirates defeated on deck went into the cabin in search of other pirates that might be concealed there, and on the act of going in saw two shots fired from the American shore. While searching the cabin two prisoners were brought in, and given in charge to deponent; the one a boy, the other a middle-aged man. This deponent questioned them as to where they were going, what number of men were on board, and where Mc Kenzie was, &c.; the younger person admitted that he was going to Navy Island on board the steamer next morning, and said he belonged to the steam-boat; the other did not tell deponent where he was going; said when he went to bed there were about sixteen persons on board; believed others came on board afterwards; said he had seen Mc Kenzie four or five days previous in Buffalo, but believed he, Mc Kenzie, was then on Navy Island; said prisoner also told this deponent that ten men run into the hold on the first alarm being given; this deponent searched the hold of the steamer, and found no person there. This deponent further saith, that while on guard over the said prisoners, Lieutenant McCormick, R.N., came into the cabin, and showed this deponent his arm, which was badly wounded by the pirates, and also said the elder prisoner was one of the murderous villains who had done it. This deponent having heard the order given to burn the boat, went upon deck, and asked Captain Drew what was to be

done with the wounded man who was a prisoner, and Captain Drew desired this deponent to put the prisoner carefully on shore, and on his being put on shore, prisoner thanked deponent for his kindness. This deponent then assisted in unmooring, as they supposed, the piratical steamer from the wharf, but on getting into their boats, and finding that something still held the vessel, they boarded her a second time, when deponent heard some person (believes it was Captain Drew) call aloud, "If there be any person on board, come out, as the boat is going to be burned." Deponent assisted in setting said piratical steamer on fire; and after getting on board Lieutenant Beer's boat, deponent ascertained that two others of Captain Drew's party were wounded besides Lieutenant Mc Cormick. This deponent saith, that so far from regretting having assisted to destroy the said vessel, should his services be again required he will be equally as ready at any other time to assist in subduing any rebels that may try to subvert the constitution or disturb the peace of this province.

(Signed) WILLIAM O. B. GAFFENY.

Sworn before me, at London, this  
8th day of May, 1838.

(Signed) L. LAWRASON,  
*Justice of the Peace, London District.*

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Sub-Inclosure 3 in No. 2.

*Deposition of Christopher Beer.*

*Upper Canada, London District to Wit.*—Christopher Beer, of the township of Adelaide, in the London District, a lieutenant in the Royal Navy, deposes and saith, that he commanded one of the boats in the expedition for destroying the piratical steam-boat "Caroline" on the night of the 29th of December last; that this deponent heard distinctly the challenge of the sentinel on the steam-boat, and her demand to give the countersign, and immediately afterwards the report of a gun, which this deponent believes to be fired from the said sentinel.

And further, this deponent saith, that during the attack he heard the report of fire-arms in the direction of the Inn at Schlosser, which this deponent has no doubt were fired at our party or the boats; gave directions to put a man on shore who was wounded in the arm from the cut of a sabre. The steam-boat had passed during the day from Navy Island to Schlosser.

(Signed) CHRISTOPHER BEER.

Sworn before me at London this 19th  
day of April, 1838.

(Signed) JOHN BOSTWICK,  
*Justice of the Peace.*

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Sub-Inclosure 4 in No. 2.

*Deposition of William Hamilton Merritt.*

*Niagara District to Wit.*—Personally came before me, George Rykert, Esq., one of Her Majesty's Justices of the Peace for this district, William Hamilton Merritt, of same place, M.P.P. and J.P. for said district, who being duly sworn, deposes, that shortly after the dispersion of the rebels near Toronto, and the escape of certain individuals to the opposite side, the magistrates of this district received such information as induced them to make preparations for defence, not from any apprehension within the district, but to guard against attempts from the opposite shore.

With this view, on Sunday, the 10th of December, 1837, they met at Niagara, organized committees throughout the different divisions within the district for mutual defence, and deputed deponent, in company with

Colonel Cameron, who arrived on Tuesday, to establish guards on the frontier to Fort Erie, which was promptly executed; a large force was reported to have assembled on the opposite side, and in a few days after, Navy Island was taken possession of by the rebels and Americans. The militia, only partially armed, were much harassed, and serious apprehensions were entertained of an immediate attack. Not holding any military situation, and having been many years acquainted with the oldest and most respectable inhabitants on the opposite side, deponent was frequently over, and in communication with those individuals who were, he is positive, decidedly averse to the measures then enforced by the mobs. Shortly after the honourable the Speaker, Colonel McNab, was placed in command, deponent was requested by him to go over in company with Doctor Beadle, of this place, and communicate with Mr. Garrow, the United States' Marshall, then in Buffalo, to whom he presented a letter from Colonel McNab, the object of which was to ascertain whether the civil authority could or would prevent the arming of and supplies for those individuals with material. Mr. Garrow appeared desirous to counteract and restrain those individuals, and so did many others; but he frankly acknowledged to both Doctor Beadle and deponent, that they could not be restrained by the civil authority then under his control, and he so informed Governor Marcy, as well as the Secretary at War at the time; this he also communicated to the honourable Archibald McLean, who was then in Washington, and Mr. Fox, our Chargé d'Affaires at that place. During the night deponent was in Buffalo, the "Caroline" steamer was cut out of the ice by a number of men who volunteered for the purpose, as deponent was informed, for the express purpose of conveying material to, and keeping up a communication between, Navy Island and Schlosser. He gave information to Colonel Kirby, and recommended the boat being cut out on passing down the river, and made a similar communication to Colonel McNab.

The master of the "Caroline" deposes, that the boat was intended to ply between Buffalo and Schlosser; at that time a railroad was in operation between those points; and deponent does not believe, neither is it reasonable to suppose, at that inclement season, a steamer would be cut out of the ice for the sole purpose of competition with this railroad. He can only add, that such an idea was not entertained at the time, as far as came under his observation, and even now is considered an absurdity by those with whom he has conversed on the subject. Deponent believes the cutting out of this boat was perfectly justifiable under the circumstances; that it has produced a good effect, and was the same to be renewed again, from the practical effects witnessed, he would again recommend the capture of the boat; further this deponent saith not.

(Signed)

WILLIAM HAMILTON MERRITT.

Sworn before me this 19th day  
of April, 1838.

(Signed)

GEORGE RYKERT,  
Justice of the Peace.

*St. Katherine's, Upper Canada.*

Sub-Inclosure 5 in No. 2.

*Deposition of John Radenhurst.*

Upper Canada.

BEFORE me, the honourable Robert Baldwin Sullivan, one of Her Majesty's Executive Council in the said province, on this 24th day of November, 1838, at the Council Chamber in Toronto, personally came and appeared, *John Radenhurst*, of the said city of Toronto, Esquire, who, being duly sworn, deposeth and saith as follows; that is to say,—I was one of the volunteers on the Niagara frontier when Navy Island was occupied by a hostile force from the State of New York; I was acting as aide-camp to Colonel McNab, and was under his command on the 29th day of December last. On the morning of that day intelligence was received



in the camp at Chippewa, that the steam-boat "Caroline" had brought from Schlosser to Navy Island a brass six-pounder field-piece with four bay horses, and a quantity of warlike stores, for the use of the hostile force on the island; I saw her cross from the American shore to the island; I saw her cross only once, but I was informed, and it was a matter of notoriety, that she crossed twice to Navy Island in the course of that day, and she evidently formed the principal means of communication between the occupants of Navy Island and the main land of the United States. It was of the utmost consequence to prevent supplies of arms and warlike stores from the main land, as with them the enemy would be enabled to erect strong defences, which would make the capture of the island a matter of difficulty, and involve great loss of life. The current of the Niagara River running rapidly around the island, attack from the British side was thereby rendered difficult and dangerous; and communication in aid of the enemy from the American shore was also impeded considerably, unless by means of a steam-vessel. Without easy communication from the main land to the island, the place could not hold out, and must have fallen without effusion of blood on either side. For these reasons, Colonel McNab thought it right to order that the "Caroline" steam-boat should be cut out and captured or destroyed, which measure could not be considered a hostile movement against the United States' Government, there being at the time no force on the part of that Government in the neighbourhood to control or prevent the violation of peace between the two countries, the frontier opposite to Navy Island being virtually as much in possession of the enemy as the island itself. The attack on the steam-boat, therefore, would appear to me to be as much in aid of the authority of the United States' Government—then grossly violated, and not maintaining itself within its own territory—as for the service of Her Majesty.

Colonel McNab commanded Captain Drew, of the Royal Navy, to cut out the steam-boat, and I volunteered my services to accompany him.

Eight boats, with about forty-five men, were prepared for the expedition, six only of them, however, arrived, the current running too heavily for the remaining two boats. I was in the same boat with Captain Drew. The night was very dark, so that the approach of the boats was not observed; the boats in the first place rowed round the island to the side nearest the American shore. Captain Drew being in hopes of finding the steam-boat at the island, but being disappointed in this hope, the expedition proceeded to Schlosser, where the boat was discovered. On approaching within about twenty yards of the steam-boat, the boats were hailed: "Who comes there?" This was repeated several times, no answer whatever was made; the person who hailed them called out loudly, "The enemy are coming!" upon which we pulled alongside and boarded in the after gangway, and the other boat, commanded by Lieutenant Elmsley, accompanied by Lieutenant Mc Cormick, in the bow; when I got on board, I ran immediately forward, where a firing had commenced. There I met Lieutenant Mc Cormick, who was severely wounded with a ball through his wrist, and several buck shot in his arm and side; and I saw a number of persons rushing from the boat to the wharf. I then returned to the after-part of the boat, where I found in the ladies' cabin a man, whom I am informed was the captain of the boat, and a boy; they were in a dreadful state of alarm, and begged for mercy; I interferred to prevent them being hurt, and offered to see them both safe ashore; I assured them they should not be hurt. The captain, who was lying down in a corner, rose and took my arm, and I accompanied him to the wharf, and saw him safe ashore; the boy refused to go ashore; he was terrified, and I put him into our boat. A smart fire of small arms then commenced from the shore; it was with great difficulty the chain which held the boat could be got loose. We commenced to set fire to the vessel. I was with Mr. John Harris, a master in the Royal Navy; in the end, we set fire to the boat by means of a carcass and fire from the furnaces. I did not observe any arms on board. I went on the wharf, and saw the man whom I believe to be the sentinel, lying about fifteen or twenty yards from the boat; he was dead; and his musket was in his arms. The first

shot was fired from the boat about midships, just as we commenced climbing the sides of the vessel; there were no shots fired from the after-part of the steam-boat; the firing, which commenced from the shore, came from the house, the only one, as far as I can recollect, in the place; it is a tavern; there were about thirty shots fired from that place; the boat was then taken out into the stream, Captain Drew ordering that no damage whatever should be done to American property. I can positively swear that there was no cry of "Damn them, give no quarter," or any expression of that nature; the captain of the steam-boat could not have heard any such cry or expression, as he was, as I have before stated, lying in the corner of the ladies' cabin; he begged for mercy, offered no resistance, and found no difficulty in going safe on shore, to which he went, having hold of my arm. I only saw one man killed. I am satisfied there were none killed on board the boat, and I am sure there was no person, either dead or alive, on board the boat when she was fired. I remained on board until the steam-boat was well on fire, and out in the stream, the fire been [Qy. being] lit up both fore and aft, and the bulwarks broken down, there was a clear view between decks and on deck, so that I conceive it impossible that any person could have remained on board, except the attacking party, and when they abandoned her, there remained no person in the steam-boat. There were but two houses or shantees on Navy Island when it was occupied by the enemy; it was a place of no resort, and there could be no possible occasion for taking passengers or freight to that place, except for hostile purposes, and in aid of the enemy after the invasion. Schlosser was also a place of little or no resort, and the crowd, which filled the only house at it, and the steam-boat, when she was taken, could have had no business at the place, unless in connexion with the invaders at Navy Island; nor could there have been the armed party assembled at the said house, and who fired upon our party, upon the cutting out of the steam-boat, for any purpose but that of joining or assisting the invaders at Navy Island. I have never heard it suggested that the house was occupied by United States' troops, or any authorized American force; and I conclude that it was not so occupied, from the fact, that the most unreserved and open intercourse with the enemy existed throughout the day of the 29th December, and for many days previous. I have served in the British Army, with the rank of lieutenant in the 8th regiment, during the late war; and I have been for twenty years in the service of Government in the Surveyor-General's department of Upper Canada; I am also Colonel of militia.

From all the circumstances which I observed on the 29th December, and for some days previously, I considered Schlosser and its vicinity at the disposal of the self-styled patriots; and the steam-boat "Caroline" appeared to me to be actively engaged in their service; and I therefore considered that the attack was made upon the enemies' vessel, and not upon a vessel of the United States, and in a place in the possession of the patriots, over which the authorities of the United States were at the time virtually exercising no visible power or control.

(Signed) J. RADENHURST.

Sworn at the Executive Council  
Chamber, this 24th day of No-  
vember, before me, (Signed)

R. B. SULLIVAN.

Sub-Inclosure 6 in No. 2.

*Deposition of Lieutenant John Elmsley.*

Upper Canada.

BEFORE me the Honourable Robert Baldwin Sullivan, one of Her Majesty's Executive Council, at the Council Chamber in the city of Toronto, personally came and appeared the Honourable John Elmsley, a Lieutenant in Her Majesty's Royal Navy on half-pay, and now Captain in Her Majesty's

Provincial Marine in Upper Canada, who being duly sworn, deposes and saith as follows, that is to say, in compliance with the orders of Sir Francis Bond Head, authorising Colonel Mc Nab to call upon navy officers to assist in the reduction of Navy Island, I repaired to the Niagara frontier on the 28th day of December last, and joined the volunteer force under Colonel Mc Nab at Chippewa; when I arrived, I found Navy Island in possession of a hostile force, said to have come from the neighbouring American shore; during the whole of the 29th of December, I observed a constant communication with Navy Island from Schlosser and the vicinity, kept up by means of row-boats and sail-boats, with many men on board. On my arrival, I learnt that the "Caroline" steam-boat was employed in the service of the patriots, and that she was cut out of the ice at Buffalo for that purpose; this news, I believe, came through William Hamilton Merritt, Esquire, then at Buffalo; on the morning of the 29th of December, I saw the "Caroline" coming from Schlosser to Navy Island, she had great numbers of men on board; she continued throughout the day crossing the river to and from Navy Island, bringing to the island many men, and apparently taking back but few; after it was dark, I observed the sparks of fire from the pipe of the boat as she was crossing on the same business. Navy Island, previously to the occupation of it by the invading force, was inhabited only by a widow woman and her son. Schlosser contains a tavern and a house or two, probably out-houses; it is not a place of any resort, and the "Caroline" could not have been employed in any ordinary or lawful business, and I was and am certain that she was employed in carrying men and warlike stores from the American shore to Navy Island, and in keeping up the communication between the invaders on the island and their friends on the main-shore. About four o'clock in the afternoon of the 29th of December, Commander Andrew Drew, of the Royal Navy, told me that it was determined to make an attempt upon the "Caroline" that night, and asked me to accompany him on the expedition, to which I willingly assented; he then directed me to prepare a boat's crew, which I set about immediately; seven boats were prepared, with nine men in each boat; and about midnight we left Chippewa under the command of Captain Drew. Before setting out, Captain Drew explained the object of the expedition, directed the boats to keep close together, to make no noise, to be calm and steady, and by no means to hurt a single individual who should not persist in offering resistance; he said our only object was to destroy the boat; our expectation was, that the boat would have been well guarded, as no one imagined that she could be considered in any other light than as part of the armament of the enemy. Two boats were detached to look for the steam-boat at Navy Island, we hove to for them; I do not think they went by order; we pulled over to the American shore above Schlosser, and were drifted down by the current, the stream running at about three miles an hour; we drifted down until we were hailed twice from the steam-boat; Captain Drew was in the foremost boat, I was in the fourth; so soon as we were hailed, we made a dash for the boat; I boarded at the bow; I saw several men who appeared to me to be armed; the first report of fire-arms was from the after part of the vessel; the people on board immediately ran away to the other side of the boat, and went ashore; before we got on deck they had dispersed; I should have fired on them, had it not been for Captain Drew's orders; they were not, however, molested, and we got quiet possession of the fore-castle; there was no cry of "God damn them—give no quarter;" there was not a word uttered by any of our party; we went aft, and found Captain Drew and his party in possession of the after-part of the boat; Mr. Mc Cormick was wounded, also Captain Warren and Mr. Arnold; I set to work to loose the boat, and cut off her moorings; she was very securely moored with chains, and we found very great difficulty in casting off; before we began to cast off, I stepped on shore, followed by my boat's crew, to prevent a rally; I saw a man lying dead on the wharf; I returned on board, I there saw a man who complained of being wounded, and who requested to be put on shore, which request was complied with; I saw several others put on shore peaceably; I can swear positively that there was no wanton injury inflicted on any one; whoever was hurt it was in the first brush on

boarding; I saw no one that I knew; our men were principally armed with cutlasses and boarding-pikes, some few had pistols loaded with ball; we had no buck-shot in the army; Mr. McCormick was wounded with buck-shot in several places, besides a ball which passed through his wrist; it is well known that the Americans generally use buck-shot as well as balls; when the boat was cast off, which was done to prevent injury to the wharf and store, she was set fire to. I am quite certain that when the boat was abandoned, there was no person on board, either dead or alive. I saw several men sent by Captain Drew to search the vessel, lest any person should happen to remain on board; a boy and one or two men were brought away in the boats. I ordered the boy his breakfast the next morning, and he was returned to his friends, who sent for him; this I understood was the boy who was reported, on the American side, to have been killed. The two boats for which we lay to did not arrive at the steam-boat, but pulled back to Chippewa.

On the morning of the 29th of December, I went out before breakfast, and walked towards the foot of Navy Island, about seven o'clock in the morning before sunrise. I saw a boat belonging to us which had been despatched at four o'clock to row round the island, rounding the foot of the island, and pulling in the direction of Schlosser down the river; when she got abreast of Schlosser, I saw distinctly two discharges of heavy ordnance, from the main American shore, at or near Schlosser. I was of opinion that this was directed at the boat, and I looked for the shot but did not see it fall; at this time there was a heavy fire from Navy Island, of round shot, grape and canister; the water was in a foam from the shot all round the boat; I cannot say that the fire from the mainland was directed at the boat, but it only continued while the boat was passing, a man came over from the American side, who stated, and to the best of my recollection made affidavit, that he saw persons at Schlosser firing artillery on that day. There was no American regular or militia force at Schlosser, the place was in possession of the Navy Islanders, and the firing must have come from them; there were no guns mounted at Fort Schlosser, or any station of troops there. I considered that in attacking and destroying the "Caroline," we were acting against a vessel of the enemy, and in a place in the possession of the enemy, over which the American Government at the time were exercising no actual authority.

Afterwards, about the 10th of January last, I was in command of a schooner intended to cover the landing of the troops on the Island; I went to sound the channel between Grand Island and Navy Island; I went with two unarmed boats on that service, on passing a militia station on Grand Island, where the American flag was hoisted, we were hailed by a party of three or four officers, and about twenty men, and ordered to come on shore, which I refused repeatedly; seeing them prepared to fire, I ordered the men to give way, upon which a fire was opened by the whole party, only one shot struck the boat, which took effect on the rudder head of the boat I was steering, but did no damage; this I reported officially to Captain Drew, having desisted from the service of sounding the channel, finding that I was exposed to a fire both from Navy Island and the American shore at Grand Island, and this must have caused the destruction of the whole party.

(Signed) J. ELMSLEY,

*Lieut. R. N., Capt. Provincial Marines.*

Sworn before me, this 27th day of  
November, 1838.

(Signed)

R. B. SULLIVAN.

Sub-Inclosure 7 in No. 2.

*Deposition of Charles S. Finlayson.*

Upper Canada.

BEFORE me the Honourable Robert Baldwin Sullivan, one of Her Majesty's Executive Council, in and for the Province of Upper Canada, at the Council Chamber in the city of Toronto, personally came and appeared Charles Studdart Finlayson, of the village of Grafton, in the district of Newcastle and province aforesaid, Gentleman, who being duly sworn, deposes and saith as follows:—On the breaking out of the rebellion in December last, I joined the Haldimand Troop of Horse, and marched to Toronto, and after remaining in town for some days, I obtained leave to join the Coburg Rifle Company on the Niagara frontier, and I proceeded to Niagara about the 14th of December; I joined the company at Chippewa the next day. The day before I joined, people were seen from our shore on Navy Island, there were very few there to be seen, but in the course of a few days they increased very much; between that time and the 29th of the same month, when the "Caroline" was destroyed, I saw boats frequently crossing from Schlosser and its vicinity, generally full of men. On the day after the enemy were first seen, I and another of the volunteers named Lundy, offered to cross to Grand Island, on the American side, for information, and we accordingly crossed in a small boat, and inquired of several persons on Grand Island, of the numbers and strength of the body upon Navy Island; they told us that there were about sixty men there, and that they were armed, and they advised us to return, as it would be unsafe, were we to fall within the power of the people on Navy Island; we returned and communicated our information to Colonel Ham; some days afterwards, volunteers from different places came to Chippewa, and Colonel McNab arrived at the head of a large body of men from the District of Gore; we heard many reports of the increase of men on Navy Island, and we could see them constructing batteries and works on the island. On the morning of the 29th of December, the news came that the "Caroline" was employed by the patriots, and I saw her cross from Schlosser to the eastern shore of the island. On the evening of the 29th, about six o'clock, Major Warren told me that he wished for volunteers to go upon particular service during the night; I offered my services; about ten o'clock the volunteers for this service assembled to the number of forty or fifty men; we were armed with cavalry sabres, some with cutlasses, we were ordered not to take pistols; none of them in my boat had pistols or fire-arms to my knowledge. We pulled out from Chippewa about eleven o'clock; we pulled up along shore for a time so as to get the current in our favour, and then struck across towards the foot of Navy Island, and from thence to Schlosser; we approached the American shore some distance above the wharf where the "Caroline" was lying, and dropped down upon her; in coming near the boat a person on board of her challenged:—"Who comes there," this was repeated; I cannot say whether there was an answer from other boats, but we made none; we then approached the boat, and just before the boats reached her a shot was fired from the after part of the "Caroline," which I took to be fired by the sentry who had challenged, and Captain Elmsley, in command of our boat, boarded at the bow; there were many persons on the fore-castle, and they got over the side as fast as they could to the wharf. I heard several of our people say, "Do not molest them;" we did not go with the intention of taking prisoners, or destroying the crew, and therefore no one was hindered from leaving the boat; there was some noise and apparent resistance in the after part of the boat, but they made no stand whatever at the bow; there was heard at this time an order for Mr. Elmsley's boat's crew to guard the wharf, and we went ashore; on the wharf we saw a man lying whom we supposed to be dead; he was lying on some loose boards on the wharf; while our party to the number of four or five remained on the wharf, the party on board commenced

setting fire to the vessel; after being on the wharf for a few moments, a discharge of fire-arms took place from the shore at the distance of about forty yards, as well as I could judge; the fire took place almost in a volley. I thought the fire was opened by the retreating crew who had rallied, but I am not sure; when the boat was fired we went on board, and she was swung off into the stream; I saw no person killed, but the one man on the wharf; when the boat was abandoned there was plenty of light from the fire; I saw no one on board; one or two persons, one of them a boy were, as I understood, brought away in the boats; I did not go into the after part of the boat myself, except along the side next the American shore, and I cannot speak particularly as to what took place there; there was plenty of time to have seen if any person remained on board, as it took a considerable time after the boat was cleared of the crew to set her on fire, and cast her off, and tow her out into the stream, during which time, several of our people remained on board; I heard no one call for assistance, and I saw not the least appearance of any person on board but our own party, although we remained close to the steamer until the last moment, when she was finally abandoned.

(Signed)

CHARLES S. FINLAYSON.

Sworn before me, this 27th day of  
November, 1838.

(Signed)

R. B. SULLIVAN.

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Sub-Inclosure 8 in No 2.

*Deposition of Lieutenant Mc Cormick.*

Upper Canada.

BEFORE me the Honourable Robert Baldwin Sullivan, one of Her Majesty's Executive Council of the said Province on the 11th day of December, in the year of our Lord, one thousand eight hundred and thirty-eight, at the Council Chamber in the city of Toronto, personally came and appeared Shepherd Mc Cormick, of the township of London and Province aforesaid, Esq., Lieutenant on half-pay, in Her Majesty's Royal Navy, who being duly sworn, deposeth and saith as follows, that is to say; on or about the 20th December last, I received a message from Colonel Mc Nab, requesting my presence at Chippewa; I was then living in the township of Adelaide. I repaired to Chippewa, and placed myself under the orders of Captain Drew, Royal Navy, and he set me to work to prepare a scow, so as to carry a 24-lb gun; I arrived at Chippewa, about the 22nd of December. Navy Island then was in possession of the invading force from the United States; I had not much opportunity of judging what was the force of the enemy. I observed a large boat passing frequently from the American shore at Schlosser to the island; each time she left the American shore she appeared to be full of men going to the island; I could not see that she was in any way impeded or prevented from transporting these men on the American side; the people on the island were continually firing cannon shot, so that they must have had cannon and ammunition from the American shore as well as men. I continued employed in fitting up the scow until the morning of the 28th of December, when Captain Drew went out in an eight-oared galley to reconnoitre the island. I followed in a boat with four oars; the people on the island fired a great number of cannon shot and musketry at us, but without effect, though some of the musket balls struck the boat I was in. I observed on this occasion at least 100 men dragging the guns round to fire at us; I saw the "Caroline" steamer on the morning of the 29th, about eleven o'clock; she was then crowded with men crossing from Schlosser to Navy Island; I did not see her cross again; I was particularly engaged in fitting out the scow; but it was plain that the "Caroline" was engaged in transporting men and warlike stores to the island. About eight o'clock in the afternoon I was sent for by Captain Drew; he asked me if I would go with him, and in my answering in the affirmative, he directed me to man six boats,

which I accordingly did, and placed eight men on board each; before the boats shoved off the men were armed; and ten o'clock we shoved off, and were informed of our destination; we pulled out into the stream and crossed to Schlosser, until we came a short distance above the "Caroline," and then dropped down the current upon her; at about the distance of thirty yards we were hailed from the "Caroline" by a sentry, "Who comes there?" the first time there was no answer, the challenge was repeated, when Captain Drew answered "friend;" the sentinel then demanded the countersign; Captain Drew said, "You shall have it when we get on board." The sentry then fired at us, and cried out "Here are the enemy;" we then dashed alongside as fast as we could and boarded; by the time we were climbing to the deck there were about thirty men upon the deck; I could see them rushing up from the cabin, and could see the glittering of arms. I boarded at the gangway; Captain Drew boarded nearly at the same place; just as I got before the engine, a man, tall and stout, whose head was a little bald, together with two others, rushed on me with swords; the large man said, "Damn you," made a cut at me, which I guarded with my cutlass; he then drew a pistol from his belt and fired at me at about two yards distance; three balls went through my wrist, one through my arm, and another struck me in the chest, and I at the same time received a sabre cut from one of the other men upon the loin. I staggered back about a yard before I recovered myself, and then made a cut at the principal assailant, which took effect on his head and stretched him on the deck, the others then ran off; I pursued the others who were making off, when in making a stroke at one of them whom I cut at, my foot struck against a ring-bolt, and I fell upon deck, where I lay, unable after a short time to rise from loss of blood; I did not lose my senses altogether, but I have very little recollection of what took place until I heard Captain Drew call for three cheers, in two of which I joined, but I was unable to raise the third; I was lifted up and placed in one of the small boats and was taken to Chippewa; what passed in the mean time I have little or no recollection of, as I was laying wounded and faint in the bottom of a boat.

When we boarded the "Caroline," there was a flag flying at the stern with two or three white stars; the flag was red which I could see by the light of the boat when she was set fire to; the flag was about three feet long, and, to the best of my recollection, it had a white border.

I am distinctly and decidedly certain that the "Caroline" was armed when I boarded her; I heard distinctly the challenge of the sentry, and I saw and heard him fire; I also met armed resistance on board from three armed men, and I saw others, I may say, many others, armed on board, before our people boarded; I can positively swear that there was no cry on boarding from our party, of "Give no quarter;" our orders were to destroy the "Caroline," but to spare life and do no damage to American property; and I am certain that any assertions of ferocious conduct, or language, on our part, on the occasion of the destruction of the steam-boat, are utterly false and untrue.

(Signed) SHEPHERD Mc CORMICK.  
Sworn at the Council Chamber  
before me, (Signed) R. B. SULLIVAN.

Sub-Inclosure 9 in No. 2.

*Deposition of Peregrine Warren.*

Upper Canada.

BEFORE the Honourable Executive Council of the said Province at the Council Chamber, in the city of Toronto, on the 13th day of December, in the year of our Lord, 1838, personally came and appeared, Peregrine Warren, of the township of Haldimand, in the district of Newcastle, Esq., late a captain in Her Majesty's 66th Regiment of Infantry, who being duly sworn, deposed and saith as follows:—In the month of December



last I proceeded with a company of militia under my command from Toronto to Niagara, and from thence to Waterloo in the district of Niagara, where we were stationed; we were there about a week before we heard of the occupation of Navy Island by an invading force from the United States. On hearing that Navy Island was in the possession of the enemy we were ordered to Chippewa. For several days before the destruction of the "Caroline" steam-boat I observed boats crossing from the American shore to the island. Three or four days before the attack upon the steam-boat I crossed to Buffalo. I went into two iron-foundries, where I was told that cannon-balls were casting for the patriots on the island; in one of the foundries I saw a large quantity of six-pound shot already cast; in another foundry I saw the people at work, casting six-pound and grape and canister shot; I asked what they were intended for, and I was told they were playthings for the people on Navy Island; a person offered to accompany me to Navy Island, and to introduce me to General Van Rensselaer of the patriot army; but I did not go, in consequence of my hearing that my intention was discovered, and that I should probably be detained; numbers of people were continually going down to Navy Island; those proceedings were quite open and undisguised; about the 13th or 14th of the same month of December I had crossed to Buffalo, this was immediately after a great meeting had been held in favour of the patriots at the Buffalo Theatre. I went into the Eagle Tavern, and there I saw a number of armed men, who were conversing openly upon the subject of crossing that night to Waterloo; and when I left the town about eight or nine o'clock in the evening, the drums were beating in the streets for recruits; and I learned that the intention was to march the volunteers to the theatre, and from thence to Black Rock, from which place they were to cross to the Canada side. I did not learn by what means they intended to cross. I saw no interference on either occasion of my being in Buffalo on the part of the civil or military authorities of the United States with the proceedings of the patriots. I crossed over to the British side, and about eleven o'clock I heard the drums of the party beating on the march from Buffalo to Black Rock; I learned afterwards that the force only amounted to 150 men, and they did not cross the river; on the morning of the day on which the "Caroline" was burned; I saw her crossing from Schlosser on the American side to Navy Island. I of course thought she was not going there for any good purpose. The buildings at Schlosser consist of a store-house, a wharf, and a tavern a little way from the water; it was not at that time of the year a place of any resort. Navy Island is immediately above the falls of Niagara, and is not a place of resort for mercantile or other peaceable purposes which would require a steam-boat to ply between it and the American shore. On the 29th of December, at dinner, I first heard of the intention to cut out the "Caroline." I and every one else considered the "Caroline" to be an enemy's vessel, transporting men and warlike stores from the American shore. I considered that, situated as Navy Island was in the midst of the current of the Niagara River and near to the Falls of Niagara, that it was of the utmost consequence to prevent reinforcements from the American shore, and supplies of arms and ordnance, which would make it difficult and dangerous to attack the island; and I therefore readily concurred in the project of destroying her. I thought at the time that she would probably be moored at Navy Island. I went to Captain Drew and Lieutenant McCormick, and offered to supply them with as many volunteers for the service as they wanted; they told me to furnish them at a certain hour, I think about ten or eleven o'clock at night; about eleven o'clock I took down about fifteen men, out of which I found that only five or six were wanted; the men were armed with cavalry sabres, and boarding-pikes, which were on board the boats. I cannot say whether they had pistols or not. We pulled out opposite to the lower point of Navy Island, and across the river for Schlosser, where Captain Drew informed us that the steam-boat was lying. We got to the American side, and dropped down with the current upon the steam-boat. Captain Drew was in one boat, Lieutenant McCormick in another, in which I was, and Mr. Elmley in another; when we came within about one

hundred yards of the steam-boat, we were challenged, "Who comes there?" this was repeated quickly, I think three times, before an answer was made; when Captain Drew answered, "Friend;" then the challenge said, "Give the countersign," to which Captain Drew made answer, "I will when I get on board;" Captain Drew then said, "Give way," and our boat boarded at the starboard quarter; a shot was fired from near the ladies' cabin. When I got on board I crossed the vessel, and on the side next the shore I went towards the head, and I met a man with a sword in his hand; I caught his wrist and held up his arm to see if he had the red badge on it which we wore; the light of the embers under the boilers gave sufficient light to see whether he had the badge or not. I asked whether he was a Mc Kenzie man; he released his hand and attacked me; he wounded me on the arm; in the mean time another man came behind him and fired at me; the ball passed through my trowsers' pocket, wounding me slightly on the hip; the two men ran aft and crossed the vessel to the shore. I then stationed myself in the gangway near the wharf to prevent the recapture of the boat. While I was there some shots were fired from the house, or near it. The boat was then got loose and set fire to. I was the last person who left the boat. During the scuffle I saw a man descend the ladder, and I was told afterwards that his waistcoat was torn, as if with a sword. I afterwards saw a man on deck, who I believe to be the same person, and he was permitted to go on shore. When I left the boat I saw no person on board, either dead or alive; and I walked along the deck from one end of the boat to the other; the boat was set fire to three times in the ladies' cabin and the fire went out, and it took some time to loose the boat; there was full opportunities for any one on board to come out. On boarding the boat there was no cry of "Give no quarter," or of that nature; our orders were to take the boat, and, if we could, to bring her across the river; and if not, to set fire to her. I neither saw or heard any person either dead or alive on board the boat when she was abandoned.

A person named Hardy afterwards came over to Chippewa, and he had a scar across his head, which he said he had received on board the "Caroline" when she was taken; he said the steam-boat was chartered for the patriot service, and that the patriots had given security to the owners in case she should be destroyed; he mentioned the name of a man who was killed, and said, that his brother had sworn vengeance against the perpetrators of the deed; I do not remember the name.

(Signed) P. WARREN.

Sworn before the Council.

(Signed)

WILLIAM H. LEE.  
*Acting Clerk, Executive Council.*

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Sub-Inclosure 10 in No. 2.

*Deposition of Commander A. Drew.*

Upper Canada.

BEFORE me, the Honourable Robert Baldwin Sullivan, one of Her Majesty's Executive Council for the said province, on the 15th day of December, 1838, at the city of Toronto, personally came and appeared, Andrew Drew, of Woodstock, in the district of London and province aforesaid, Esq.; Commander in Her Majesty's Royal Navy, who, being duly sworn, deposeth and saith as follows: that is to say, on or about the 12th day of December, 1837, in consequence of reports of a rebellion in the neighbourhood of Toronto, I left home to offer my services to the Government. I travelled all night; and the next morning I met Colonel Mc Nab at Ancaster advancing with 400 or 500 men. He told me he was going to Oakland to put down a body of rebels who had assembled under Doctor Duncomb. I volunteered to go with him; I went with him through the London district; when we got as far as Oxford, after having

dispersed the rebels, intelligence was received of Mc Kenzie having, with the assistance of men from the United States' territory, occupied Navy Island in the Niagara River, just above the Falls of Niagara. Colonel Mc Nab resolved to march eastward, and he went to Toronto for orders. I proceeded to Chippewa opposite to Navy Island with an Aid-de-Camp, to await his arrival, and to make arrangements; on my arrival at Chippewa I saw Colonel Cameron commanding on the frontier, and I understood from him that Navy Island was occupied, and that he was momentarily expecting an attack from Navy Island. The next day Colonel Mc Nab arrived with a body of militia at Chippewa, and assumed the command. It was immediately determined that Navy Island should be attacked; and I was employed in preparing boats to take the men across for that purpose. I observed an uninterrupted communication kept up from Schlosser on the American shore with Navy Island by means of boats and two large scows, which I supposed, and now believe, were occupied in bringing men, arms, warlike stores, and provisions from the American shore to Navy Island. This lasted about three days; and on the fourth day, in the morning, I first saw the "Caroline." This was on the 29th of December. About ten o'clock in the morning it was reported, that the steam-boat "Caroline" was coming down the river from Buffalo to the assistance of the invaders employed by Mc Kenzie. About noon I saw her make a trip from Schlosser to Navy Island; about four in the afternoon I saw her cross with a cannon on her deck, which I saw through a telescope, when I was observing her in company with Mr. Harris. I immediately reported the fact to Colonel Mc Nab, that I had seen the boat with a gun and men on board coming to the island. Colonel Mc Nab then asked me, would it not be possible to cut her out? I said that there was nothing easier, but that if he wanted it done he had better say nothing about it; his answer to me was, "Well then go and do it." I then went about to beat up for volunteers to go on an expedition, without explaining what the expedition was. I got seven boats prepared and armed the crews with sabres, which were removed from a company of dragoons; I gave orders that no fire-arms should be taken on any pretence; and I gave as a reason that the night was likely to be dark, and that if the men had fire-arms they were as likely to shoot their friends as their enemies. I said I would trust to my own sword, and I wished the others to do so; and if any fire-arms were taken it was without my knowledge. I ordered the officers whom I selected for the expedition to have the boats ready, and the men assembled by ten o'clock; a little after ten I went down to the beach, and found the boats loaded with men; I ordered every man out of the boats, with the exception of eight men and one officer to each boat; there were seven boats; and my rejection of the supernumary volunteers caused a good deal of grumbling amongst them who were desirous to join in the expedition; but I was obliged to keep the boats light as we had to contend with a strong current within one mile above the Falls of Niagara. Colonel Mc Nab had previously ordered me to trace the vessel, and the last I had seen of her was between Navy Island and Grand Island; and when night closed, I did not know whether she was at Navy Island or at Schlosser. For the purpose of discovering where she was we pulled closer to Navy Island than we otherwise would have had occasion to do; but on pulling round the foot of Navy Island, and seeing nothing of her, we pulled for Schlosser. We started from Chippewa about half past ten, and we arrived at Schlosser about half-past eleven, or thereabouts. We then discovered the lights in the cabin windows, and we also found a narrow neck of land between us and the steam-boat. We then discovered that only five of the boats had come up. The new moon was shining, and we lay upon our oars for half an hour, until the night became somewhat darker, and then we pulled a little down the stream, put the boats in a fair way, and dropped down upon our oars; in about a quarter of an hour, we fell down upon the steam-boat, my boat being ahead, the others following in line. It had been previously ordered that I should board on the starboard gangway, the second boat on the starboard bow, and the others according to their stations; when my boat came within about twenty yards, we were hailed from the steam-boat three

times, "Boat a hoy, boat a hoy! who comes there?" An answer was made from the bow of my boat, "A friend!" upon which the person hailing from the boat said, "Give us the countersign;" upon which I said, "I will give you the countersign when we get on board." I boarded on the starboard gangway, and found five men waiting to receive me; these men did not appear to be armed; and on reaching the deck, I said, "Now my iads, I want this vessel—go ashore," and I swept them off with the broad side of my cutlass; three of them went ashore over the larboard gangway, and on their going more slowly than I wished, I hastened them by prodding them with my cutlass behind; three of them went ashore, but two slunk behind the ladies' cabin and the bulwark; immediately afterwards, one of them fired a musket in my face; the ball passed close to my nose, over the starboard gangway; I immediately cut the man down with my cutlass, and I thought I killed him, but I find from his own statement now shown to me that he is alive. In an instant afterwards, a man attempted to fire a pistol at me, but it flashed in the pan; I cut him over the right arm, and turned him ashore; just at that time, I heard some shots in the fore part of the vessel, I then went forward and found that she was in our possession, and I gave orders for every one to sheath their swords; I then gave orders to cast off the vessel head and stern, and I sent Lieasrs. Rdenhurst, Le Penetiere, and Drummond, down to see that there was no person on board. I at the same time gave orders for firing the vessel fore and aft; just as the fire was lighted, several shots were fired from the shore, as I judged, from the tavern. At this time we had cast her off; we had much difficulty; we had to get a light down to see how she was moored; we cast her off, because we wished not to burn the wharf or the buildings. I then ordered every man into the boats, and I remained on board. Just then a man came up the fore hatchway; I asked him if there was any one else below, and he answered no; upon which we pulled the boat into the stream, and giving three cheers, we let her go. Before this, Mr. Drummond brought up a man out of the cabin, and on his coming upon deck, I said, "We do not want prisoners, we only want the boat, let him go," and he was accordingly put on shore, just before shoving off. I learned that a man, who was shot in the head in the cabin, was still alive, and thinking that he might by some possibility survive, I ordered him to be put on shore. I did believe that the man whom I first struck at was killed, but I now think, from seeing the affidavit of a person answering the description, that he escaped with a wound on the head; and I now do not think that, with the exception of the man shot in the head in the cabin, any life was lost in the taking the "Caroline." I am certain that there was no person, either dead or alive, on board the boat when she was abandoned; I took the greatest pains to ascertain this point, and the fullest opportunity was afforded, besides, for any person who might by possibility have escaped the search to come upon deck; there could not, in fact, from the precautions I took, have been any persons remaining on board, and I am convinced there were none such. We then pulled over to the Canadian shore; the "Caroline," to my surprise, instead of going over the American falls, came out into the stream, and went down the main stream at the British falls. Lights were, as was previously arranged, lit up on the Canada shore, and we pulled for them, and returned in safety.

After shoving off, I found a boy in one of the boats, who had been on board the "Caroline," and also a man from Dumfries, in Upper Canada. I gave the boy a bed in my quarters that night, and the next morning I gave him half a dollar to pay his way across the river, and shortly after the United States' Marshal came to claim him. I can positively say, that there was no cry of "Give no quarter," or any exclamation of the kind; our sole object was to obtain possession of the boat, and nothing was done for any other purpose. In addition, I have only to say, that Navy Island is not a place of any resort or trade; it had no population; it was not a place to which the "Caroline" steam-boat could have had any legitimate or merely contraband business. I am certain that the "Caroline" was in the service of the invaders; there was no trade at the time of the year in which she could have been employed on the river, and it was im-

possible she could have had any business at Navy Island, unless in the brigand service. As a naval officer, I am of opinion, that it was of consequence, particularly as we had not the slightest hope of American Government interference, to cut off the supplies of men, provisions, ordnance, arms, and ammunition, which the steam-boat "Caroline" was supplying, and which might in a short time have made Navy Island a post which could not have been attacked without great danger and difficulty; and I am certain that the destruction of that boat caused the evacuation of Navy Island without bloodshed, and saved many lives, both American and British, which would otherwise have been lost in an attack and defence of the post. The only reason why the "Caroline" was destroyed, was simply this:—she was engaged in the service of the invaders, without the slightest control or attempt of prevention on the part of the American Government; and as that Government either could not, or would not, prevent her employment, hostile as it was to Her Majesty's rights and territory, we were not disposed to permit, and would not, her uncontrolled employment in a service in which she might cause the loss of many lives, and made the retaking of Navy Island a doubtful and difficult matter.

(Signed)

ANDREW DREW,

*Commander Royal Navy.*

Sworn before me,

(Signed)

R. B. SULLIVAN.

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 Inclosure 2 in No. 2.

*Deposition of Samuel Wood, Citizen of the United States.*

Upper Canada.

BE it remembered, that on the 13th day of April, in the year of our Lord 1839, at the city of Toronto, personally came and appeared before me, the honourable Robert Baldwin Sullivan, one of Her Majesty's Executive Council in and for the said province, *Samuel Wood*, a prisoner in custody in this district, who being duly sworn on the Holy Evangelist, deposed and saith as follows, that is to say, I was born in the city of New York; I am now forty-four years of age; I lived in New York until a little better than three years ago; my trade was that of a shipwright. About sixteen years ago I bought 120 acres of land in the town of Huchimer, in the State of New York, about twenty miles north of Utica; I got it in the way of trade; it cost me about two dollars per acre, though the land was not at the time worth so much. This farm is worth to me at least sixteen dollars per acre. I could not content myself in a farm, so I again went to shipwrighting on Lake Erie. I removed from New York to my farm, which, from the time I purchased it, was continually increasing in value, in the year 1835. In the year 1836, I went to Lake Erie to resume my old trade of a shipwright. In the first place I went to Buffalo, where I remained until the winter of the year 1837. I was there employed at shipwright's work on some scows for the State of New York on the Erie Canal. The first I heard of any disturbances in Upper Canada, was from William Lyon McKenzie. I saw him and Sutherland on the 10th of December, on the stage at the Buffalo Theatre, between seven and eight in the evening. They both made long speeches there, representing that Canada was so oppressed, that it was impossible to live under the Government; that the Canadians were all ready for revolt, and that it was only necessary that a force from the United States should show itself, to cause a general rising of the people of Upper Canada.

At this time I was employed as a shipwright, at work upon some scows belonging to the State of New York, in the canal. Mc Kenzie and Sutherland came to Tonnawanta, and explained what they calculated to do in the Canadian expedition. I engaged in the patriot service at Tonnawanta, and intended to come over if everything should prove as

Mc Kenzie had stated, and to assist in promoting a change in the Government. We calculated that we could not assemble in large numbers within the American territory, without risking the neutrality of the United States; and the plan was therefore laid to occupy some position within the British lines. I joined the patriots on the 10th of December. Mc Kenzie and Sutherland had, to my knowledge, at that time, only twenty-seven followers, of whom I was the first to join them. I held no rank, but was promised great advantages in my trade of shipwright, when Canada should be conquered. We went from Tonnawanta to Black Rock, on the night of the 11th, between eleven and twelve o'clock. On the morning of the 12th, we went to a store at Black Rock, here we found 400 stand of arms, muskets, bayonets, and accoutrements: they bore the Springfield mark. There is a large manufactory at Springfield, where arms are made for the United States' Government. The arms were, I understood, brought there in the night; but I never learned where they came from, or by whom they were placed there. At the first formation of the patriots, there were no oaths administered, but many of the proceedings were kept secret from the privates; and the officers alone were entrusted with them. Sutherland entered the store, and brought out a flag, on which was inscribed the word "Liberty" and two stars, to designate the Upper and Lower Province. He went down on a wharf, and waved the flag. A number of people assembled on the Canada shore to see us march. I suppose they suspected all was not right. We then went to the store where the arms were. The United States' Marshal interfered, and seized the arms that were on the shelves; but while he was taking them out at the front door, Sutherland was taking them out at the back door, and hiding them away. The closets up stairs were full of arms, but the Marshal satisfied himself with looking in at the door of the room, and did not examine the closets. I think there were about 400 stand of arms in the store altogether. The Marshal got about half, and the patriots half. The Marshal took what he had seized to Buffalo; we took what we saved to a yellow barn about a mile off; there was no resistance made to the Marshal, he might have taken them all. I thought it was a contrived plan, although I am unable to say so from my own knowledge. On the night of the 12th, we started between eleven and twelve o'clock to Buffalo. There was a brass six-pounder in the barn, which I was informed came from Buffalo. It belonged to a corps of militia artillery. I do not know how it was procured. There were about twenty-seven of us, and we took a musket and accoutrements each. We dragged the gun along. About half-way to Buffalo we met another six-pound brass gun with horses. We then proceeded to Buffalo; we went down Commercial-street, and went on board a schooner in the harbour. There was no wind, and the schooner was frozen in. I do not know where it was their intention to go that night. We returned, by General Sutherland's orders, the same night to Black Rock, taking our guns with us. We stayed there till daylight, and then went to Tonnawanta, not taking the guns with us. The cannon were hidden in a barn between Tonnawanta and Black Rock, and the small arms were returned into the yellow barn. We remained at Tonnawanta quiet until the 15th December; we went to view Navy Island; we went on Grand Island, from whence we had a close view of Navy Island; and on seeing it, we resolved to occupy it. General Sutherland gave orders to every man to meet at Roger's Hotel, at Tonnawanta, at ten o'clock that night. We met accordingly, Mc Kenzie, Sutherland, and Van Rensselaer being all there. We there found a scow with the small arms and two cannon in her. We crossed to Grand Island, where stopped and got our supper. We then crossed in the scow to Navy Island. We got on the island just as the day broke, on the 16th December. We went to a house in which there was a widow woman and her two daughters. The General told her there was no use in resistance; and promised, that any damage done to her property should be made good. We put the arms into the house, and went to the upper end of the island, to prepare it for the reception of men. We remained undiscovered until Sunday morning, the 17th December, when a boat from the British side approached the lower end of the island, and was hailed by the sentry, who stated after-



wards that he heard one of the men in the boat exclaim, "There, I told you they were on the island; see their flag!"

The sentry called to arms, and he fired one of the cannon at her. We got into three skiffs and pursued the boat, but she outrowed us. When we opened the Canada shore, we saw the force stationed there, run a piece of cannon down to the beach, upon which we returned under shelter of the island; two more men joined us on the 17th. We remained during the week, and each day we were joined by people from the mainland. On the 19th or 20th, Mc Kenzie drew out a proclamation to encourage the people to come on. Mc Kenzie and Sutherland told us, that an army of 1000 men were prepared to join us, near Fort Schlosser, but were merely waiting till we should prepare to receive them. By the latter end of the week, our force amounted to about sixty men. We observed, that on the British side they were making breast-works, and that a number of men had assembled there. I knew that if we were attacked, we could make no effectual resistance, so I hid a boat under the bank, intending to make my escape the first opportunity. After the proclamation issued, the recruits began to join more rapidly.

In the latter part of the week, General Sutherland sent for two barges to Buffalo, to ply between the island and Schlosser: they arrived on Saturday; they plied regularly, bringing men and arms from Schlosser. When it was found that recruits were joining so fast, and the weather being rough, the General concluded to have a small steam-boat to ply between the two places. He wrote to Captain Appleby to procure a steam-boat, which was done immediately. I am not able to say whether or not the boat was bought by the patriots, but I know that if not, she was chartered; she was in the complete control of the patriots. This was the steam-boat "Caroline," which was afterwards destroyed. Captain Appleby was in command of her.

The boat arrived between ten and eleven o'clock on the morning of the 28th of December. General Sutherland and Mc Kenzie went on board, and consulted with Captain Appleby. I was present, and heard them say, "Now we can bring our men across without difficulty, let the weather be fair or foul." The boat brought over some men the first trip.

I heard that the "Caroline" was procured for the patriot service three days before she arrived. I went to Buffalo on leave of absence, and returned in the "Caroline" to the island. The boat was lying in the canal at Buffalo, but was cut out of the ice, at which operation I helped; there were arms on board when she went down, but I did not see them taken on shore. There was no disguise about her coming to the island. She had been expected some days.

The General Van Rensselaer's head-quarters were close to the water, and he and Mc Kenzie conversed with Captain Appleby each trip. When he arrived at the island with the second trip, I heard General Van Rensselaer give orders to Captain Appleby not to remain at the main land at night, but to bring the boat to the island; he said that the British might be reconnoitering, and if they caught the boat they would destroy her. Captain Appleby replied, that his boilers leaked and he would have to go to Tonawanta that night to have them repaired, and that he would return the next morning. General Van Rensselaer then warned Captain Appleby to take great care of the boat, for she was in danger of being destroyed by the British. The boat left the island and returned to Schlosser between three and four o'clock; I never heard the reason why she remained at Schlosser, as it was expected that she would have directly proceeded to Tonawanta.

The second trip, the "Caroline" brought over twelve or fourteen recruits, and a quantity of small arms: she also towed over a scow with two pieces of cannon in her.

The force on the island at this time amounted to about 250 men; they had about twelve pieces of cannon mounted along the shore, at the upper and lower end as well as at the west side; two of them had no carriages: I was told that they were brought from Rochester, Lewiston, Niagara, Buffalo, and various parts of the country. A militia regiment was stationed on Grand Island, and guards were placed along the shore, but they



did not prevent the arms, recruits, and supplies from coming to the island. The cannon were brought over generally in broad daylight and without any disguise. On the night of the 28th of December, I was sleeping at the head-quarters, in the same room with General Van Rensselaer and Mc Kenzie; between eleven and twelve at night I was awoken by a discharge of small arms at Schlosser, and Mc Kenzie and Van Rensselaer also started up, and we went out of doors; presently we saw a light, where the steam-boat was towing out amongst the bushes, from a creek where she was moored, and presently we saw her in a blaze, and going down the stream, upon which Van Rensselaer exclaimed, "That's the 'Caroline'—that's the consequence of not obeying orders," (alluding to his order that she should be moored at the island,) "but it will be the dearest undertaking ever they undertook,—I will have another boat before long. Appleby owns ten thousand dollars in the 'Constitution' steam-boat, and we will have her immediately."

Mc Kenzie and Van Rensselaer had quarrelled before this time about money-matters, and were not on good terms. When Mc Kenzie saw the "Caroline" burning, he said, it was the "best thing could happen the patriots." We saw the blazing boat go down the river, but from the place where we stood we could not see her approach the Falls. About two hours before day a man was despatched to Schlosser for intelligence, and at daylight he returned; he brought back news that it was in fact the "Caroline," and that he heard there were some persons on board when she went down the river.

A man who was in the habit of rowing in the barges backwards and forwards came over to the island in the course of the morning; he gave the following account: "that he was on board, and had been placed sentinel on deck; that he had seen the British boats advancing and had hailed them, and upon receiving no answer, he had gone down and informed Captain Appleby, who immediately jumped up and went on shore; that he himself jumped over the bows, and got into a boat, and so escaped." I asked him how many went over in the steam-boat, but he could not tell of any.

The cook of the "Caroline" afterwards came over: he had a slight wound in the thigh, which he said he had received from a bayonet; he said he knew nothing of any people on board, but that it was supposed there were some; this was his last story, for in the first place he said, that fourteen people had come to sleep on board, afterwards he said there were nine, and finally, that he did not of his own knowledge know of any; he said that he did not see any one killed or hurt.

Appleby came over afterwards, but I did not hear what he said to the General.

I have conversed with a great many persons respecting the destruction of the "Caroline," and I have heard a great many accounts of the transactions from various persons who professed to be acquainted with the circumstances, but I never heard any person named as having perished on board when she was set on fire, but a boy of fifteen years of age, who was said to have remained in the water-closet, and that his cries had been heard; from which it was judged that he was on board. I never heard his name, or that any boy was missed afterwards; several names were mentioned, but were afterwards contradicted.

Major Lawton, of the patriots, afterwards came over: he stated that he was at the tavern at Schlosser when the "Caroline" was destroyed; that the tavern was full of men, with plenty of arms, but that none of them would move to the rescue of the boat; he did not state where the firing came from; I never learned by whom the shots were fired; there was not much stress laid upon the circumstance.

Every one seemed to understand that the "Caroline" was in the service of the patriots. I never heard any one deny that fact. I heard Captain Appleby agree with Van Rensselaer to let the "Constitution" come to replace the "Caroline" within twenty-four hours, but I afterwards was told that the other owners would not agree.

This is all I know about the destruction of the "Caroline," and from what I have above stated, I am sure that the boat was in the patriot

service, and that General Van Rensselaer expected she would be destroyed if she fell into the power of the British.

There was but one man killed on the island; he lost his life by lying down to avoid a cannon ball, which, however, was nearly spent before it reached him, as it barely entered his body, and stopped there until he was turned over.

A good many balls and shells fell on the island; one of the shells fell into head-quarters, which could not have been well loaded, as it merely knocked open some boxes of beans. Mrs. Mc Kenzie was in the next room, but she merely smiled when she heard the noise.

Sutherland was in a state of great terror while he was on the island, he could not sleep, and was continually calling the men to arms; he left the island in consequence of Major Chace threatening to shoot him.

Two rockets fell near the head-quarters; one made a great hole in the ground, another split a tree, about nine inches through, to pieces.

General Van Rensselaer spent the principal part of his time lying on a buffalo skin.

A merchant of Buffalo, named White, took a most active part in the Navy Island affair; he seemed to have much influence, and was constantly referred to. Doctor Chapin, of the same place, was also very active in the patriot cause:

They seemed to have plenty of money, clothing, and provisions; the money was lodged in the bank at Buffalo at the disposal of Van Rensselaer. When we evacuated the island we had about twenty-six pieces of cannon. Powder and ball were sent in large quantities from Buffalo. I never heard what the intentions of the patriot generals were, whether they intended to cross into Canada, or to satisfy themselves with conquering the island.

We remained on the island returning the fire from the shore of Canada, without much damage on either side, until the night of the 14th of January we were ordered to evacuate, which we did in safety, taking the cannon and other arms along with us. After leaving the island, we went to a tavern south of Buffalo, at the Indian reservation, where we remained for three days, then we went to the westward to Silver creek, where we expected a boat called the "North American" to take us on board; she came in, but she had United States troops on board. We dispersed, and the United States officers hearing that some arms were at Fredonia, the steam-boat went to Dunkirk and the arms were seized; these were the arms we depended upon; they were the same, I believe, that we had at Navy Island; I do not know what became of the artillery we had at Navy Island.

From Fredonia we went westward, and were under command of Colonel Vreeland. Mc Kenzie remained at Buffalo to supply means. Van Rensselaer left us altogether, and gave up the command to General McLeod. At Conant Colonel Seward took the command; we were then about 500 strong. When we left Navy Island we were about 1,200 or 1,300 strong; the 500 that went westward were principally those who had been on Navy Island. A few joined us on the way. We marched from Conant to Sandusky. We never saw Sutherland after he left Navy Island. The United States' Marshal was at Sandusky, and he ordered us off, and we went to the peninsula forming the harbour, and remained there undisturbed for three weeks; were supplied with provisions rather scantily from Sandusky. I believe that many would have abandoned the patriot cause, but we were in the midst of winter and could not get a day's work, and we had more chance of relief as patriots than in a private capacity. We were waiting for arms on the peninsula, which at length arrived in sleighs to the extent of 400 stand, in boxes marked "sweet apples;" then Colonel Bradley, who came with the arms, took the command. He was from Huron county, and had been the master of a steam-boat. On Sunday the 26th of February, we were ordered to march. Colonel Bradley led the advance with about twenty men; we did not know where we were going; we went on the ice to Cunningham's landing, about five miles from the shore; we encamped in Cunningham's Island until eight o'clock at night; we were ordered off at that time, and we saw a fire right

ahead, and our orders were to steer for that fire; we marched about eight miles, and arrived at the fire upon Bass Island, where Bradley had lit a fire, he being in advance; we warmed ourselves, and went round a little point of land and saw another fire, which was upon Point aux Pelé; but none of the men knew where they were going, or that the fire was upon British ground. We arrived at Point aux Pelé at daylight on Monday; we remained at the house of a man named Fox, who supplied us, I cannot say whether willingly or not, with what he had, and we then marched on the land to the west end of the island.

The night was very cold, and many of the men were frost-bitten. I believe they would all have rejoiced to leave the service, but they had neither victuals nor money, and could not retreat. We remained on the west end of the island till Saturday morning, intending to leave it, but our men were so frost-bitten that we could not get them off; on that morning we saw the army from the British side coming over the ice; we saw them divide, and part of them go to the end at which we were, and the others went round on the ice to the south of the island. We retreated as fast as possible, the British force under Colonel Maitland being within a mile and a half of us; and when we came to the middle of the island and went towards the ice intending to retreat, but on rising a knoll on the land, we discovered Captain Brown's detachment, in column on the ice; we were halted, and Bradley, Seward, and Van Rensselaer, jun., issued their orders that if any man flinched he should be shot. The Colonel said, "When they come to see there are so many of us they will retreat, and we can get off that way;" we were ordered not to fire upon them until they should commence; the British opened the fire; and we marched up in line upon the ice; there was some rough ice near the shore, but not sufficient to shelter a man. The soldiers opened a fire which we returned, as well as we could. I found that I had no flint in my gun, and consequently did not fire. I received a ball in my ear which cut off part of it, and buried itself in my cheek-bone, and another which broke my thigh bone; three other patriots fell near me, and young Van Rensselaer was killed at the other end of the line; four others were slightly wounded, but they retreated with the rest. Upon the charge of bayonets from the British, none were killed with the bayonet; the patriot force retreated about 500 yards, and then took the ice again, and were not pursued. I lay about three hours on the ice, and was afterwards taken to Amherstburgh: there were no hunters' Lodges formed before I was taken.

(Signed) SAMUEL WOOD.

Sworn before me,

(Signed) R. B. SULLIVAN.

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Inclosure 3 in No. 2.

*Collection of Despatches and General Orders showing the various acts by which the destruction of the "Caroline" steam-boat was authorized and avowed by the Authorities of Upper Canada.*

*Mr. Stephen to Mr. Backhouse.*

Sir,

*Downing Street, March 29, 1841.*

WITH reference to your letter of the 12th instant, and to previous correspondence on the subject of the proceedings of the United States with respect to Mr. McLeod, Lord John Russell directs me to state, that it may perhaps be useful to retrace at this time the various acts by which the burning of the "Caroline" was authorized and avowed by the authorities of Upper Canada. I am accordingly to request that you will bring under the notice of Viscount Palmerston the accompanying statements of Colonel McNab and Commander Drew, which are extracted from the despatches and the inclosures relating to the destruction of the "Caroline."

## "GENERAL ORDER.

" *Head-quarters, Toronto, December 9, 1837.*

" Colonel McNab, of the 4th Regiment Gore Militia, will forthwith raise a sufficient force of dragoons and infantry (volunteers or others), and proceed to the Loudon district, to disperse any rebels who may be found in arms, or may be preparing to resist the Queen's forces.

" Colonel McNab will make such arrangements as shall be sufficient to provide provisions and other necessaries for the forces under his command.

" He will act with the civil magistrates in the arrest of such persons as shall have been guilty of treason or sedition, or who shall in any way have aided or assisted, or countenanced rebels in arms or preparing to arm.

" (Signed) F. B. HEAD."

" Sir,

" *Toronto, December 20, 1837.*

" I am commanded by the Lieutenant-Governor to inform you, that should you require the assistance of naval officers of experience to recover possession for Her Majesty of Navy Island, his Excellency desires that you will call upon such naval officers in the province as you may deem proper to select to afford him their services, and that you will explain to them that they will receive their full pay during the period they are thus publicly employed by his Excellency on Her Majesty's service.

" I have, &c.,

" (Signed) J. M. STRACHAN,  
" *Military Secretary.*"

" *The Honourable Colonel McNab,*  
" &c. &c. &c.

" By me, Allan Napier McNab, Colonel commanding Her Majesty's forces on the Niagara frontier.

" By virtue of the power and authority vested in me, as the colonel commanding Her Majesty's forces on this frontier by his Excellency Sir Francis Bond Head, Bart., &c., Lieutenant-Governor of the province of Upper Canada, in a despatch dated this 20th day of December, instant, commanding me to call forth the services of such officers of Her Majesty's Royal Navy as may be necessary for the purpose of organizing an armed naval force to co-operate with the troops under my command in the reduction of Navy Island,

" I hereby authorize you to take upon yourself the charge and command of the naval department, to act in concert with me. You will organize such a force of armed vessels and boats for a flotilla as will protect the landing, and transport 1,000 men from the Canadian shore to Navy Island. You will also make such other arrangements as in your judgment you may think necessary for the good of Her Majesty's service, and for effecting the object of the expedition; for which this shall be your sufficient warrant.

" Given under my hand this 20th day of December, in the year of our Lord, 1837.

" (Signed) ALLAN N. McNAB,  
" *Colonel Commanding.*"

" *Commander Andrew Drew,*  
" &c. &c. &c.

" *Niagara Frontier, Chippewa,*  
" *January 17, 1838.*

" Navy Island having been evacuated by the rebels, you will immediately proceed to lay up the vessels and boats composing the flotilla under your command in safety for the winter.

"You are hereby authorized to continue on the spot yourself until further orders, with such a complement of naval officers and seamen as you may deem sufficient to take proper care of the flotilla.

" (Signed) F. B. HEAD.

" *Captain Drew, R.N., Chippewa.*"

" Sir,

" *Toronto, February 4, 1838.*

" You are hereby commanded, in addition to the duties already pointed out to you, of protecting the property of Her Majesty lately employed with the naval department, and placing the schooners and flotilla in a place of security, to use your utmost endeavours to procure such information of the movements of the rebels, or any other persons inimical to Her Majesty's Government, as may conduce to the interest of Her Majesty's service; taking care, however, to be extremely cautious and circumspect in the discharge of your duty to avoid every thing that could in the least degree compromise the dignity of Her Majesty's Government, or give just cause of complaint to the Government of any other country at peace with Great Britain. You will report your movements to me, as also to the Lords' Commissioners of the Admiralty, as often as occasion may require, and you will continue your pendant flying until I shall have had time to communicate these instructions to Her Majesty's Principal Secretary of State for the Colonies.

" (Signed) F. B. HEAD.

" *Captain Drew, R.N.*"

Sir George Arthur states, in his report to Lord Glenelg, of 17th of December, 1838, "that the destruction of the 'Caroline' was resolved on by Colonel McNab, at the exigency of the moment, without orders from the Lieutenant-Governor." He also forwarded a deposition, by Commander Drew, of which the following are extracts:—

"I first saw the 'Caroline' on the 29th of December, about 10 o'clock in the morning; it was reported that the steam-boat 'Caroline' was coming down the river from Buffalo to the assistance of the invaders employed by Mc Kenzie.

"About noon I saw her make a trip from Schlosser to Navy Island. About four in the afternoon I saw her cross, with a cannon on her deck, which I saw through a telescope when I was observing her, in company with Mr. Harris. I immediately reported the fact to Colonel McNab that I had seen the boat with a gun and men on board coming to the island; Colonel McNab then asked me, would it not be possible to cut her out? I said that there was nothing easier; but that if he wanted it done, he had better say nothing about it. His answer to me was, 'Well, then, go and do it.' I then went about to beat up for volunteers to go on an expedition, without explaining what the expedition was. I got seven boats prepared, and armed the crews with sabres, which were borrowed from a company of dragoons. I gave orders that no fire-arms should be taken on any pretence, and I gave as a reason that the night was likely to be dark, and that if the men had fire-arms they were as likely to shoot their friends as their enemies. I said I would trust to my own sword, and I wished the others to do so, and if any fire-arms were taken, it was without my knowledge.

"A little after ten I went down to the beach, and found the boats loaded with men; I ordered the men out of the boats, with the exception of eight men and one officer to each boat.

"Colonel McNab had previously ordered me to trace the vessel, and the last I had seen of her was between Navy Island and Grand Island, and when night closed I did not know whether she was at Navy Island or at Schlosser. For the purpose of discovering where she was, we pulled closer to Navy Island than we otherwise would have had occasion to do. But in pulling round the foot of Navy Island, and seeing nothing of her, we pulled for Schlosser.

"We pulled a little down the stream, put the boats in a fair way;

*Caroline in J.B. 115.  
18th Dec 38  
See also...*

and dropped down on our oars. In about a quarter of an hour we fell down on the steam-boat, my boat being a head, the others following in line. It had been previously ordered that I should board on the starboard gangway, the second boat on the starboard bow, and the others according to their stations. When my boat came within about twenty yards we were hailed from the steam-boat three times, 'Boat a-hoy! boat a-hoy! who comes there.' Our answer was made from the bow of my boat, 'A friend,' on which the person hailing from the boat said, 'Give us the countersign,' upon which I said I will give you the countersign when we get on board. I boarded on the starboard gangway, and found five men waiting to receive me; these men did not appear to be armed, and on reaching the deck, I said, 'Now, my lads, I want this vessel; go ashore.' And I swept them off with the broad side of my cutlass; three of them went on shore, over the larboard gangway, and on their going more slowly than I wished, I hastened them by prodding them with my cutlass behind. Three of them went ashore; but two slunk behind the ladies cabin, and the bulwark; immediately afterwards one of them fired a musket in my face, the ball passed close to my nose, over the starboard gangway. I immediately cut the man down with my cutlass, and I thought I killed him; but I find from his own statement now shown to me that he is alive; in an instant afterwards a man attempted to fire a pistol at me, but it flashed in the pan. I cut him over the right arm, and turned him ashore. Just at that time I heard some shots in the fore-part of the vessel, I then went forward and found that she was in our possession, and I gave orders for every one to sheath their swords. I then gave orders to cast off the vessel head and stern, and I sent Messrs. Radenhurst, Le Penetierre, and Drummond down to see that there was no person on board. I at the same time gave orders for firing the vessel fore-and-aft. Just as the fire was lighted several shots were fired from the shore, as I judged from the tavern. At this time we had cast her off. We had much difficulty to get a light down to see how she was moored. We cast her off, because we wished not to burn the wharf or the buildings. I then ordered every man into the boats, and I remained on board. Just then a man came up the fore hatchway, I asked him if there was any one else below, and he answered 'No,' upon which we pulled the boat into the stream, and giving three cheers, we let her go. Before this Mr. Drummond brought up a man out of the cabin, and upon his coming on deck. I said, we do not want prisoners, we only want the boat, let him go, and he was accordingly put on shore. Just before shoving off, I learnt that a man, who was shot in the head, in the cabin, was still alive, and thinking that he might by some possibility survive, I ordered him to be put on shore; I did believe that the man whom I first struck at was killed, but I now think from the affidavit of a person answering the description; that he escaped with a wound on the head, and I now do not think that with the exception of the man shot in the head in the cabin; that any life was lost in taking the 'Caroline.' I am certain that there was no person either dead or alive on board the boat when she was abandoned. I took the greatest pains to ascertain this point, and the fullest opportunity was afforded, besides, for any person who might by possibility have escaped this search to come on deck. There could not, in fact, from the precautions I took, have been any persons remaining on board, and I am convinced there were none such. We then pulled over to the Canadian shore. The 'Caroline,' to my surprise, instead of going over the American Falls, came out into the stream, and went down the main stream at the British Falls. Lights were, as was previously arranged, lit up on the Canadian shore, and we pulled for them and returned in safety.

"After shoving off, I found a boy in one of the boats, who had been on board the 'Caroline,' and also a man from Dumfries in Upper Canada. I gave the boy a bed in my quarters that night, and the next morning I gave him half a dollar to pay his way across the river, and shortly after the United States' marshal came to claim him. I can positively say that there was no cry of 'Give no quarter,' or any exclamation of the kind. Our sole object was to obtain possession of the boat, and nothing was done for any other purpose."

*Extracts from Sir F. B. Head's despatch to Lord Glenelg of the 10th of January, 1838, showing the part taken by Colonel Mc Nab in the affair of the "Caroline."*

"Head-quarters, Chippewa, December 30, 1837.  
"Saturday morning, 3 o'clock.

"Sir,  
"I have the honour to report for the information of his Excellency the Lieutenant-Governor, that having received positive information that the pirates and rebels of Navy Island have purchased a steam-boat called the 'Caroline,' to facilitate their intended invasion of this country, and being confirmed in my information yesterday, by the boat (which sailed under British colours) appearing at the Island, I determined upon cutting her out; and having sent Captain Drew of the Royal Navy, he, in the most gallant manner, with a crew of volunteers (whose names I shall hereafter mention), performed this dangerous service, which was handsomely effected. In consequence of the heavy current, it was found to be impossible to get the vessel over to this place, and it was therefore necessary to set her on fire. Her colours are now in my possession.

"I have, &c.,

A. N. Mc NAB,

"Colonel Commanding.

"P.S.—We have two or three wounded, and the pirates about the same number killed.

"(Signed) A. N. Mc NAB."

"Lieut.-Colonel James M. Strachan.

&c. &c. &c.

"Sir, "Head-quarters, Chippewa, January 1, 1838.

"I have the honour to enclose to you, for the information of his Excellency the Lieutenant-Governor, the report of Captain Drew, R.N., of the capture and destruction by fire of the piratical steamer 'Caroline,' whilst engaged in the service of the rebels at Navy Island.

"The report of that gallant officer, his Excellency will observe, is written with that modesty which always distinguishes the accounts of a brave man of his own valour; but I beg to assure his Excellency that it was a most daring and spirited action, and for which I feel most grateful to Captain Drew and the brave fellows under his command, who so nobly volunteered to perform this desperate service.

"I shall take an early opportunity to forward to his Excellency the names of the party under Captain Drew, that the country may know every actor in this gallant affair.

"It affords me the greatest satisfaction to state that Captain McCormack, although severely wounded, is in a fair way of recovery. Captain Arnold's wounds will, I trust, soon be healed. Captain Warren (late of the 66th) is doing duty as usual.

"I have, &c.,

"(Signed)

ALLAN N. McNAB,

"Colonel Commanding,"

"Lieut.-Colonel James M. Strachan.

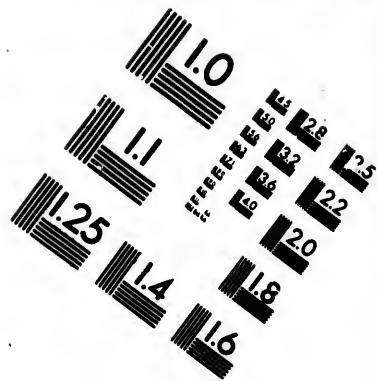
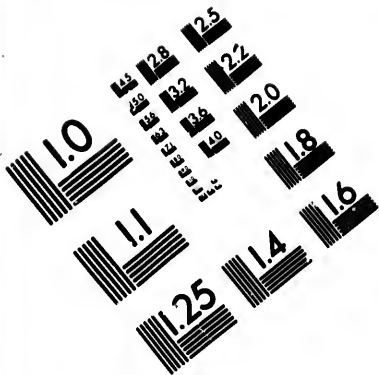
&c. &c. &c.

"Sir, "Head-quarters, Chippewa, December 30, 1837.

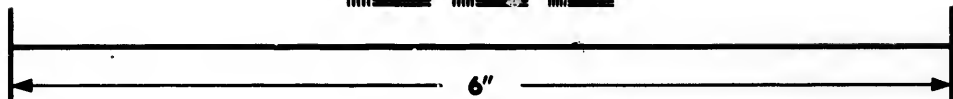
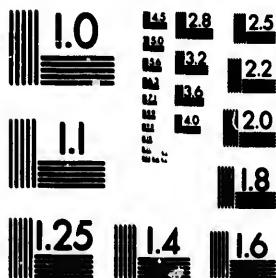
"I have the honour to inform you that, in obedience to your commands, to burn, sink, or destroy the piratical steam-vessel which had been plying between Navy Island and the American shore; the whole of yesterday I ordered a look out to be kept upon her; and at about 5 P.M. of yesterday, when the day had closed in, Mr. Harris, of the Royal Navy, reported the vessel to me, as having moored off Navy Island. I immediately directed five boats to be armed and manned with forty-five volunteers; and at about 11 o'clock, P.M., we pushed off from the shore for Navy Island, when not finding her there, as expected, we went in search, and found her moored between an island and the main shore.







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"I then assembled the boats off the point of the Island, and dropped quietly down upon the steamer; we were not discovered until within twenty yards of her, when the sentry upon the gangway hailed us, and asked for the countersign, which I told him we would give when we got on board; he then fired upon us, when we immediately boarded, and found from twenty to thirty men upon her decks, who were easily overcome, and in two minutes she was in our possession. As the current was running strong, and our position close to the Falls of Niagara, I deemed it most prudent to burn the vessel; but previously to setting her on fire, we took the precaution to loose her from her moorings, and turn her out into the stream, to prevent the possibility of the destruction of anything like American property. In short, all those on board the steamer, who did not resist, were quietly put on shore, as I thought it possible there might be some American citizens on board. Those who assailed us were of course dealt with according to the usages of war.

"I cannot speak too highly of the conduct of the officers and men who accompanied me; their coolness and bravery shows what may be expected from them when their country requires their services. Where all behaved so well, it would be invidious in me to particularize any one; but I may be excused for mentioning the gallant conduct of Lieutenant Shepard Mc Cormack of the Royal Navy who nobly seconded me, and had to encounter several of the pirates in the fore part of the vessel, by which, I regret to say, he has received five desperate wounds. We have also two others wounded; and I regret to add, that five or six of the enemy were killed. A return of our wounded I beg to subjoin.

"I have, &c.,  
 "(Signed) **ANDREW DREW,**  
*Commander in the Royal Navy.*

"P.S.—I beg add, that we brought one prisoner away, a British subject, in consequence of his acknowledging that he had belonged to Duncombe's army, and was on board the steamer to join Mc Kenzie upon Navy Island.

"(Signed) **ANDREW DREW.**

"RETURN OF THE WOUNDED.

"Lieutenant Shepard Mc Cormack, R.N. - desperately.  
 "Captain Warren - - - - - slightly.  
 "John Arnold - - - - - severely.

"(Signed) **ANDREW DREW."**

"Colonel the Hon. Allan N. Mc Nab.  
 &c. &c. &c.

"Sir, "Niagara, January 1, 1838.

"The Lieutenant-Governor, on his arrival here, has this moment received your despatch of this day, inclosing to his Excellency the report of Captain Drew, R.N., of the capture and destruction of the piratical steamer 'Caroline,' whilst engaged in the service of the rebels on Navy Island.

"His Excellency desires me to express to you his unqualified approbation of this proceeding, and he desires that you will convey to Captain Drew, to Lieutenant Mc Cormack, and to the other brave volunteers who accompanied him, his thanks for the important service they have rendered this province, and which his Excellency will lose no time in making known to Her Majesty's Government.

"I have, &c.,  
 "(Signed) **J. M. STRACHAN,**  
*"Military Secretary."*  
 "Colonel the Hon. Allan N. Mc Nab.  
 &c. &c. &c.

## "GENERAL ORDER.

"Head-quarters, Chippewa, January 3, 1838.

"Colonel McNab has great satisfaction in announcing to the forces under his command, that the destruction of the steam-boat 'Caroline,' in the employment of the pirates in Navy Island, was effected in a manner so highly creditable to the gallant volunteers from the naval brigade and troops on the night of the 29th of December, 1837, has met with the unqualified approbation of his Excellency the Lieutenant-Governor; and that his Excellency desires to express to Captain Drew and the brave volunteers who accompanied him, his thanks for the important services they have rendered this province, and which his Excellency will lose no time in making known to Her Majesty's Government.

(Signed) K. CAMERON,  
"Assistant Adjutant-General."

It appears clearly from these documents :

1st. That Colonel McNab was authorized to proceed to the London district to disperse any rebels who might be found in arms.

2nd. That he was authorized to employ naval officers for the recovery of Navy Island.

3rd. That he did, under this authority, employ Commander Drew of the Royal Navy.

4th. That he ordered Commander Drew to cut out the "Caroline," then in the service of the rebels.

5th. That Commander Drew directed and led the attack on, and capture of, the "Caroline."

6th. That Colonel McNab approved the conduct of Commander Drew.

7th. That the Lieutenant-Governor of Upper Canada publicly expressed his approbation of this proceeding, and thanked the officers and volunteers engaged.

Such have been the Colonial transactions on this subject. The conduct of Sir Francis Head, of Colonel McNab, and Commander Drew, has never been in any way disavowed by Her Majesty's Government, and their conduct, and that of all persons acting under them, must, in the opinion of Lord John Russell, be considered as public acts, for which they cannot be responsible as individuals.

I have, &c.,  
(Signed) JAMES STEPHEN.

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No. 3.

*Mr. Stephenson to Viscount Palmerston.*

My Lord,

August 31, 1841.

I HAD the honour to receive yesterday the official communication, which your Lordship did me the honour to address to me, under date of the 27th instant, in reply to my Note of the 22nd of May, 1838, relative to the capture and destruction of the steam-boat, "Caroline," in the month of December, 1837, by a party of Her Majesty's Canadian subjects, within the limits and territorial jurisdiction of the United States. As the representations contained in your Lordship's Note touching this proceeding, differ so essentially in point of fact from those which were made to the Government of the United States, and which I had the honour of communicating to Her Majesty's Government in my first Note, and may consequently lead to a more thorough investigation of the whole affair, in order that the material facts of the case may be more fully ascertained; and as I am on the eve of returning to the United States, and there is reason to believe that my successor may be soon expected in England with instructions from his Government upon the subject, I do not feel it necessary or proper to embark in the general discussion of the important questions

embraced by your Lordship's Note. I shall, therefore, hasten to transmit a copy of your Lordship's communication for the information of my Government, and respectfully ask that the statements and proofs to which it refers, may be furnished to me at the earliest convenient day, for the purpose of being forwarded with your Lordship's Note.

In the mean time I deem it proper to submit to your Lordship's consideration some observations which have been rendered necessary by certain parts of your Lordship's communication, and which demand my immediate notice.

In accounting for the delay which has taken place in communicating the answer of Her Majesty's Government in the case of the "Caroline," and the incidents arising out of the border difficulties on the American and Canadian frontier, your Lordship holds the following language.

"The Government of the United States was perfectly aware, even before Mr. Stevenson's Note of May, 1838, was written, that Her Majesty's Government considered the destruction of the "Caroline" as a justifiable act of self-defence, properly done by the Colonial British authorities, for the protection of British subjects and their property, and for the security of Her Majesty's territories. This opinion had been made known to the United States' Government by Mr. Fox, in an official note to Mr. Forsyth, and by the Undersigned in more than one conversation with Mr. Stevenson." And again, in another part of your Lordship's note it is stated, "That Her Majesty's Government did not, after the receipt of Mr. Stevenson's note, retract the opinions expressed in the matter by Mr. Fox and by the Undersigned; nor did Her Majesty's Government in any manner disavow or disapprove the conduct of the Lieutenant-Governor of Canada; and therefore, both that which Her Majesty's Government had done, and that which Her Majesty's Government abstained from doing, could leave no doubt whatever on the mind of the President of the United States, that the British Government intended to decline to comply with the demand contained in Mr. Stevenson's Note." And again, your Lordship further observes, "It is to be presumed that it was a communication to this effect, which induced Mr. Stevenson to refrain from pressing for an answer to his Note, without special instructions from his Government to do so, and that also led Mr. Forsyth to instruct him to abstain, till further orders, from taking any step in the matter."

Now, if it is intended in these parts of your Lordship's Note to leave it to be inferred that the capture and destruction of the "Caroline" steamer was, in the opinion of Her Majesty's Government, a justifiable act of self-defence by the Colonial authorities, or that this opinion and avowal had been officially made known by Mr. Fox to the Government of the United States in his correspondence with the Secretary of State, prior to the arrest of McLeod, or by your Lordship to me, then I take leave to say most distinctly, that any such inference is wholly unwarranted, inasmuch, as no such avowal or opinion was either communicated by Mr. Fox to my Government, or by your Lordship to me.

That it was not made by Mr. Fox, a brief recapitulation of the facts will show. In his first Note to Mr. Forsyth, written immediately after the occurrence took place, and to which it is presumed your Lordship refers, Mr. Fox confined himself to the expression of his own opinion, as to the character of the transaction, and not that of his Government.

Indeed, as late as the 23rd of December, 1840, in an official Note to the American Government, he expressly declared that he had no authority whatever to pronounce the opinion or decision of Her Majesty's Government in the case, but felt bound to record his own opinion. Besides, how could Mr. Fox, in February, 1838, be supposed to express the opinion of his Government upon a transaction, the existence of which was then unknown to Her Majesty's Government, and to which neither application for redress or complaint had been made. If Mr. Fox's communication to Mr. Forsyth could have been regarded by the American Government as communicating the avowal or opinion of Her Majesty's Government, my instructions, and the Note of May, 1838, would no doubt have been of a very different character. Whatever opinion, therefore might have been

entertained and expressed by Mr. Fox, from the circumstances detailed by the Canadian authorities, it is quite certain, that as late as December, 1840, he could have made no such communication to my Government as that which may be inferred from those parts of your Lordship's Note. That any answer was ever given or communication made by your Lordship to me, subsequent to my Note of May, 1838, which presented the case as one for redress, will not, it is presumed, be pretended. On the contrary, so marked was the delay on the part of your Lordship to answer my Note, and make known the decision of Her Majesty's Government, that in September, 1839, I drew the special attention of my Government to the subject, and asked to be instructed whether I was to press for an answer, and if so, the degree of urgency that I was to adopt.

In the answer I received, I was told by Mr. Forsyth, that no further instructions were then required; not, however, for the reasons which your Lordship is pleased to assign, but expressly on the ground that Mr. Forsyth had had frequent conversations with Mr. Fox on the subject, and one especially of a very recent date, from which the President was led to expect that Her Majesty's Government would answer my Note without any further delay. I beg leave to refer your Lordship to the official correspondence on this part of the subject, which was laid before Congress, and published by their order. Then, at least, the Government of the United States could have had no such official information as to the opinion of Her Majesty's Government as that, which your Lordship's Note would seem to infer. The inquiry then is, was there any communication made by your Lordship prior to my Note of May, 1838? Now it is readily admitted that I had two conversations with your Lordship on the subject of the "Caroline," to which I presume the allusion in your Note points. Those conversations, however, it is proper to say, were entirely of an informal and desultory character, and took place immediately on the arrival of the first intelligence of the Schlosser affair in England, and that through the public press. It is also admitted, that in these conversations I did understand your Lordship to intimate distinctly an opinion that the case might turn out to have been one which Her Majesty's Government might feel itself bound to justify as one of self-defence. No official intimation, however, had, at the time when those conversations took place, been received by Her Majesty's Government.

The substance of those conversations, it is proper also to say, was communicated by me at the time to my Government, and were also made public, and will speak for themselves. Whether conversations of this character, as early as February, 1838, can rightfully be regarded as amounting to an official avowal or approval by Her Majesty's Government of a proceeding which had not then been officially made known, or become the subject of complaint or redress, it is not necessary now to inquire into or decide.

If, therefore, it was only intended by your Lordship, (as I flatter myself it was,) to represent those conversations as the only grounds upon which the statements contained in your Lordship's Note have been made, nothing can be more correct than that such conversations (though of an informal and unofficial character) did take place, and that your Lordship is, therefore, justly entitled to the full benefit of this admission. All then that I mean to say is, that apart from these conversations, no other communication ever took place between us on the subject, until after the arrest and imprisonment of McLeod by the authorities of the State of New York, and which doubtless led to the avowal of Her Majesty's Government of the original proceeding. Upon the subject of the delay which was permitted to take place in answering my Note, it is not my duty to inquire. That is a matter for your Lordship and Her Majesty's Government. That delay I had neither the right nor the power of controlling. It was certainly not produced by me nor by my Government, and the responsibility must rest where it properly belongs. I deem it unnecessary to trouble your Lordship with any further observations. I have felt it due to myself and my Government to avail myself of the earliest moment of correcting officially, any misapprehension of which the statements contained in your Lordship's Note might be susceptible. I accordingly seize an



opportunity before your retirement from the Foreign Office, to address to your Lordship this communication. I need not assure your Lordship how sincerely I should lament that any misunderstanding should arise between us, in relation to a matter which is so capable of explanation, and that too at a moment when the public relations in which we have stood to each other, are about, in all probability, to cease for ever, and which have been sustained by those of a personal character so eminently gratifying and satisfactory.

I have, &c.,  
(Signed) A. STEVENSON.

## No. 4.

*Viscount Palmerston to Mr. Stevenson.*

*Foreign Office, September 2, 1841.*

THE Undersigned, &c. &c., has the honour to acknowledge the receipt of the note, of the 31st ultimo, from Mr. Stevenson, &c. &c., in reply to the note from the Undersigned, dated the 27th ultimo, upon the subject of the capture and destruction of the steam-boat "Caroline."

The Undersigned is glad to find that there is no essential difference between Mr. Stevenson and the Undersigned, as to their impressions with regard to the facts to which Mr. Stevenson's note refers; and, for greater precision, the Undersigned would beg leave to recapitulate them.

The "Caroline" was captured and destroyed on the night of the 29th of December, 1837.

On the 5th of January, 1838, Mr. Forsyth addressed a note to Mr. Fox, accompanied by numerous affidavits and documents, setting forth the American version of the capture of the "Caroline," which Mr. Forsyth stated would necessarily form the subject of a demand for redress upon Her Majesty's Government.

Mr. Fox immediately forwarded copies of these papers to the Lieutenant-Governor of Upper Canada, and reported thereupon to Her Majesty's Government.

On the 6th of February following, Mr. Fox addressed a note to Mr. Forsyth, in which he transmitted the accounts which he had then received from Sir Francis Head, of the circumstances which appeared to justify the act of the Canadian Authorities in the destruction of the "Caroline." And in this note, Mr. Fox wrote to Mr. Forsyth as follows:—

"The piratical character of the steam-boat 'Caroline,' and the necessity of self-defence and self-preservation, under which Her Majesty's subjects acted, in destroying that vessel, would seem to be sufficiently established.

"At the time when the event happened, the ordinary laws of the United States were not enforced within the frontier district of the State of New York. The authority of the law was overborne publicly by piratical violence. Through such violence, Her Majesty's subjects in Upper Canada had already suffered; and they were threatened with still further injury and outrage. This extraordinary state of things appears naturally and necessarily to have impelled them to consult their own security, by pursuing and destroying the vessel of their piratical enemy, wheresoever they might find her."

Mr. Forsyth, in his answer dated the 13th of February, observes that the statement of facts in the papers sent by Mr. Fox, is at variance with the information communicated to the United States' Government, and repeats the statement of his intention to address a complaint, supported by evidence, to Her Majesty's Government.

He further states: "Even admitting that the documents transmitted with your note, contain a correct statement of the occurrence, they furnish no justification of the aggression committed upon the territory of the United States;" and he concludes by a complaint against Sir F. Head, as having acted on this occasion inconsistently with the declaration which

he made in his speech at the opening of the Provincial Parliament, in which he expressed his "confidence in the disposition of the United States' Government to restrain its citizens from taking part in the conflict which was raging in that province."

To this Mr. Fox replied, in a note dated the 16th of February, that although he "did not acquiesce in the view which the United States' Government are disposed to take of the facts connected with that transaction; yet, as the Legation was not the final authority competent to decide the question on the part of Great Britain; and as Mr. Forsyth informed him that a representation would, in due time, be addressed to Her Majesty's Government in England, he considered it most consistent with his duty to avoid entering, at present, into any further controversy on the subject."

The account of the transaction reached England on the 2nd of February, 1838. Between that time and the month of May of that year, the Undersigned had some conversations with Mr. Stevenson on the subject. The Undersigned kept no memorandum of them, and, therefore, cannot say on what days they took place, nor how many they were; but Mr. Stevenson says they were two; and the Undersigned has no doubt that Mr. Stevenson is correct.

If the Undersigned is not mistaken in his recollection, one at least of these conversations was at the Foreign Office; and the Undersigned has an impression that on that occasion he read or showed to Mr. Stevenson some of the statements which Her Majesty's Government had then received of the transaction from the Government of Canada. At all events, Mr. Stevenson's recollection tallies with that of the Undersigned as to the fact that the Undersigned then intimated to Mr. Stevenson distinctly the opinion of Her Majesty's Government, that the act would turn out to have been a justifiable measure of self-defence.

On the 22d of May of that year, 1838, Mr. Stevenson, by instructions from his Government, addressed to the Undersigned an Official Note, demanding reparation for the destruction of the "Caroline," and stated, that the United States' Government considered that transaction as "an outrage upon United States' citizens, and a violation of United States' territory, committed by British troops from the province of Upper Canada, and that this outrage was planned and executed with the knowledge and approbation of the Lieutenant-Governor of Upper Canada;" and this Note was accompanied by inclosures containing full details of the American version of the case.

On the 26th of June, the Undersigned acknowledged the receipt of this Note, and stated that the attention of the British Government would be given to the matter.

From that time till the early part of the present year, when the account of the arrest of Mr. McLeod reached this country, it is correctly stated in Mr. Stevenson's Note, that "no other communication upon the subject of the "Caroline" ever took place between Mr. Stevenson and the Undersigned," with the single exception, that the case of the "Caroline" was incidentally alluded to, but not mentioned by name, in a passage of Mr. Stevenson's Note of the 26th of September, 1839, as a question pending between the two Governments. But during this interval, nearly three years, the case of the "Caroline" was, upon one occasion, the subject of communication between Mr. Stevenson and his own Government, for it appears that in September, 1839, Mr. Stevenson not having then received any reply from Her Majesty's Government to the demand for reparation, which he had made in May, 1838, asked Mr. Forsyth whether he should press for an answer, and if so, with what degree of urgency he should do so; and it appears that Mr. Forsyth, in reply, informed Mr. Stevenson that no further instructions on that matter were required; as, in consequence of some conversations with Mr. Fox, the President was led to expect an answer from Her Majesty's Government without any further delay.

No answer, however, was given by Her Majesty's Government, and yet, until after the arrest of Mr. McLeod had happened, which took place on the 12th of November, 1840, no further notice was taken of the affair

of the "Caroline," either by Mr. Stevenson, or by the United States' Government in any communication to Her Majesty's Government.

Now from these facts, Her Majesty's Government draw the following conclusions :—

It seems to Her Majesty's Government demonstrable, that even before Mr. Stevenson's Note of the 22d of May, 1838, was presented, Mr. Stevenson and the Government of Washington were made aware of the opinion of Her Majesty's Government, that the destruction of the "Caroline" had been a justifiable act of self-defence.

For it cannot be disputed that the Undersigned, as Secretary of State, was fully competent to convey the opinion of Her Majesty's Government authentically to the Minister of the United States; and that Mr. Stevenson so thought, is shown by the fact of his having deemed it right to communicate to his own Government the substance and result of his above-mentioned conversations with the Undersigned.

Those conversations were undoubtedly informal, inasmuch as they did not arise in consequence of any communication which Mr. Stevenson was instructed by his Government to make to the Undersigned; and they were conversations of that kind which frequently take place between the Minister of a Foreign Government and the Secretary of State, with a view to a preliminary understanding upon matters which are likely to be subjects of formal discussion between their respective Governments; and in order to prepare the way for such future discussions.

It is, indeed, quite true, as observed by Mr. Stevenson, that the strong opinion expressed by Mr. Fox in January, 1838, could not, at that time, have been expressed in consequence of specific instructions from Her Majesty's Government, because there had not been time for him to have received any such instructions; but a Minister Plenipotentiary has a general authority to speak and act on behalf of his Government; and if his words and acts are not disavowed by his Government in due time, the Government by its silence adopts and becomes responsible for them. But the opinions expressed by Mr. Fox in January, 1838, upon the subject of the destruction of the "Caroline" were not disavowed by Her Majesty's Government, and have never been disavowed by them to this day.

Now the Undersigned does not, of course, mean to say that the opinions so expressed by Mr. Fox and by himself were final and conclusive decisions of Her Majesty's Government in the case, although certainly that given in writing by Mr. Fox was as strong and unequivocal as words could well convey: and it is obvious that those opinions having been expressed before the date of Mr. Stevenson's Note of May, 1838, could not, at any rate, have been decisions upon the demand made in that Note; and as those opinions had been founded upon the information which Her Majesty's colonial authorities had then transmitted to Mr. Fox and to Her Majesty's Government, it was possible that counter-statements, founded upon information collected by the United States' Government, might satisfy Her Majesty's Government that their first view of the case, and their first opinion regarding it, however strong that opinion might have been, were erroneous. The Undersigned, therefore, does not mean to say, and never has contended, that either his conversations with Mr. Stevenson, or Mr. Fox's Note to Mr. Forsyth, ought to have precluded the demand which was afterwards made by Mr. Stevenson's Note of May, 1838; but the Undersigned contends, that that demand was made with a previous knowledge on the part of the United States' Government of the views and opinions of Her Majesty's Government as to the transactions to which the demand related. The Undersigned has further to remark, that the words of Mr. Stevenson's Note of May, 1838, distinctly prove that the Government of the United States did not entertain any doubt whatever whether the capture and destruction of the "Caroline" had been the unauthorized act of individuals, for which such individuals were to be made responsible in their private capacity, or whether it had been a public act done by persons in the service of the British Government, and obeying superior authority, and for which, consequently, the British Government was to be responsible; because the specific complaint of Mr. Stevenson

was, that the act was committed "by a portion of the British forces stationed at Chippewa, and that it was planned and executed with the knowledge and approbation of the Lieutenant-Governor of Upper Canada, and that it was the invasion of the territory and sovereignty of an independent nation by the armed forces of a friendly Power;" and the specific demand Mr. Stevenson made was, that "the whole proceeding should be disavowed and disapproved, and that such redress, as the nature of the case obviously required, should be promptly made by the British Government." The Undersigned, therefore, maintains that the very contents of Mr. Stevenson's Note of 1838 preclude the United States' Government from attempting to make Mr. McLeod, or any other British subject, personally answerable for any share they may be supposed to have had in the destruction of the "Caroline;" and that Mr. Forsyth was mistaken in saying, as he did in his Note to Mr. Fox of the 26th of December, 1840, that up to that time the United States' Government had no authentic announcement that the destruction of the "Caroline" was a public act of persons in Her Majesty's service obeying the order of their superior authorities. For Mr. Forsyth would have found that authentic announcement in the Note of his own Plenipotentiary, presented in pursuance of instructions from himself, so long ago as May, 1838. But while, on the one hand, the Undersigned contends that the United States' Government knew, in the early part of 1838, that Her Majesty's Government thought the destruction of the "Caroline" a justifiable act; on the other hand, the Undersigned begs to state, that Her Majesty's Government, by continuing to give no reply to the demand made in Mr. Stevenson's Note of May, 1838, was, in fact, practically declining to comply with that demand; and the only legitimate inference which the United States' Government could draw from that silence was, that Her Majesty's Government adhered to the opinion which it had originally expressed.

It appears then from Mr. Stevenson's statement that for nearly three years the United States Government acquiesced in the silence of Her Majesty's Government on this subject; for though in October, 1839, Mr. Forsyth stated as a reason for not pressing Her Majesty's Government for an answer, that the President had been led by some conversation of Mr. Fox to expect the British answer without any further delay; yet that reason necessarily ceased with the further lapse of time, and could not be said to have held good, as long as till the beginning of 1840.

Mr. Stevenson, moreover, specifically states in his note of the 31st ultimo, that during the whole interval between the date of his note of May, 1838, and the time when the arrest of Mr. McLeod became known in England, in February, 1841, no communication ever took place between himself and the Undersigned, on the subject of the "Caroline." Now, as neither Mr. Stevenson, nor the late President Van Buren, have ever shown themselves deficient in watchful and active attention to all matters in which the just rights of the United States have been concerned, the Undersigned conceives that he has not much erred in supposing, as stated by him in his former communication, that this long and intentional silence of the United States' Government, and of its Minister at this Court upon the subject of the "Caroline," arose from the considerations to which the Undersigned adverted in that Note.

In hazarding that supposition, it seems to the Undersigned that he has assumed nothing but what is highly honourable to the Government of the United States; and that he has only imagined that Government to have been guided by the same feelings of conciliation, which the Undersigned begs to assure Mr. Stevenson have invariably animated the Government of Her Majesty in all its dealings and intercourse with Mr. Stevenson, and with the Government which Mr. Stevenson has so ably and so honourably represented at this Court.

I am, &c.,  
(Signed) PALMERSTON.

No. 5.

*Mr. Stevenson to Viscount Palmerston.—(Received September 4.)*

My Lord,

32, Upper Grosvenor Street,  
September 2, 1841.

I HASTEN to do myself the honour of acknowledging the receipt of your Lordship's Note of this evening, in reply to mine of the 31st ultimo, relative to the capture and destruction of the "Caroline" steamer.

I shall take the earliest opportunity of forwarding a copy of your Lordship's communication to the United States, but in what light the statements and circumstances which it details, will be regarded by my Government, it does not belong to me to decide, or even to conjecture.

Without desiring therefore to protract a discussion, in the conduct of which, neither your Lordship's sincerity, or my own, will be doubted, it is yet proper that I should notice the misapprehension which still seems to exist, in relation to the causes which influenced my Government, or myself, in not pressing upon your Lordship and Her Majesty's Government, an earlier decision of this painful subject.

After the explicit answer given in the last Note which I had the honour to address to your Lordship on this part of the case, and in which it was stated, that neither my Government, nor myself, were influenced by the considerations supposed in your Lordship's Note of the 27th ultimo, I had not imagined that such an inference would again have been repeated, and more especially, as I am still unable to perceive in the statements contained in your Lordship's last Note, any just foundation for such an imputation. On the contrary, the motives which influenced my course, connected either with myself, my Government, or that of Her Majesty's, were of an entirely different character from those which have been imagined. I must, therefore, take leave again to enter my friendly protest against the impression in which your Lordship still indulges, and to restate in language as precise and intelligible as I can use, that in refraining from pressing the case upon the consideration of Her Majesty's Government, I was not influenced, nor have I any reason to believe that my Government was, either wholly, or partially, by the considerations which your Lordship has felt authorized again to repeat; and however such a course might have been regarded by your Lordship as honourable to the Government of the United States, or its Minister. Should it however turn out to be the case, that the acquiescence in the silence of Her Majesty's Government by that of the United States, was as your Lordship supposes, a sacrifice made to a love of peace; of one thing I can assure your Lordship, that my Government will be prepared at the proper time, and whenever it may become necessary to do so, frankly to avow it. As there is no other part of your Lordship's communication, which requires any further notice from me, I avail myself of the opportunity in closing finally the correspondence, to express my acknowledgments for the very gratifying terms in which your Lordship has been pleased to speak of the manner in which I have represented my country at Her Majesty's Court, and to tender to your Lordship the renewed assurances of my distinguished consideration and respect.

(Signed)

A. STEVENSON.

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